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Fiscal Year (FY) 2020 Continuing Resolution

On Wednesday, September 18, lawmakers reached a deal on an FY 2020 Continuing Resolution (CR). The stopgap spending measure will extend federal funding through November 21, 2019, and avoid a government shutdown at the end of this month. The House passed the measure on Thursday, September 19, by a vote of 301-123, and the Senate is expected to pass the bill this week. The text of the legislation is available [here](#) and a division-by-division summary of the legislation is available [here](#).

Senate FY 2020 Labor-HHS Appropriations Bill

On Wednesday, September 18, the Senate Appropriations Committee released the bill text and accompanying report for its FY 2020 Labor-HHS spending bill after a markup was postponed earlier this month due to policy fights over abortion.

The Senate also held a procedural vote the same day on the first spending package passed by the House earlier this year that includes the Defense, Labor-HHS, Energy & Water and State-Foreign Operations spending measures. The four-bill spending package did not get the 60 votes necessary to end debate on the motion to proceed given that Democrats opposed the package. They did so on the grounds that Republicans had not negotiated the full set of 12 Subcommittee allocations on a bipartisan basis. If cloture had been invoked, Appropriations Committee Chairman Richard Shelby (R-AL) indicated that Republicans would have brought up the Senate versions of the four bills passed by the House, bypassing Subcommittee and full Committee markups for both the Senate’s Labor-HHS and State-Foreign Operations bills.

As indicated in the FY 2020 CR section, instead of sending any regular appropriations bills to the President’s desk this month, the House and Senate plan to pass a CR through November 21 to avoid a government shutdown. Chairman Shelby has indicated the Senate will continue to try to pass some of the FY 2020 spending bills through the Senate and will continue to mark up bills in Committee.

In addition, Senate appropriators have discussed packaging some of the smaller, less controversial FY 2020 spending bills together on the floor. Senate Appropriations Vice Chairman Patrick Leahy (D-VT) suggested moving some of the less controversial bills to the floor and Chairman Shelby indicated he is open to the idea, although Congressional leaders would have to make the final call.

Specific to the Social Security Administration (SSA) the Senate report includes the following language related to SSA’s Limitation on Administrative Expenses (LAE) account:

LIMITATION ON ADMINISTRATIVE EXPENSES

Appropriations, 2019	\$12,870,945,000
Budget estimate, 2020	12,772,000,000
Committee recommendation	12,772,000,000

This account provides resources for SSA to administer the OASI, DI, and SSI programs, and to support CMS in administering the Medicare program. The LAE account is funded by the Social Security and Medicare trust funds for their share of administrative expenses, the general fund for the SSI program’s share of administrative expenses, and applicable user fees. These funds support core

administrative activities including processing retirement and disability claims, conducting hearings to review disability determination appeals, issuing Social Security numbers and cards, processing individuals' annual earnings information, and ensuring the integrity of Social Security programs through continuing disability reviews [CDR] and SSI redeterminations of non-medical eligibility.

The Committee recommendation includes \$1,582,000,000 for program integrity activities, including CDRs, SSI redeterminations of non-medical eligibility, and Cooperative Disability Investigations units. This includes \$273,000,000 in base funding and \$1,309,000,000 in cap adjustment funding allowed under the Budget Control Act [BCA]. The Committee recommendation reflects the full amount allowed under the BCA. Combined, these activities are estimated to save approximately \$9,600,000,000 over 10 years for the Social Security, Medicare, and Medicaid programs by preventing waste, fraud, abuse, and improper payments.

Administrative Law Judges.—The Committee continues to expect that Administrative Law Judges be independent, impartial and selected based on qualifications that maintain a high standard for appointment.

Continuing Disability Reviews [CDR].—The Committee notes that after years of sustained funding, SSA eliminated its CDR backlog in fiscal year 2018 and expects to remain current on CDRs going forward. The Committee directs SSA to include in its next CDR Report to Congress an evaluation of its CDR prioritization models and specifically a detailed cost-benefit analysis of how it uses estimated savings in determining which beneficiaries receive a full-medical CDR.

Disability Case Processing System.—The Committee continues to note cost overruns in efforts to modernize the Disability Case Processing System [DCPS]. The Committee continues to encourage SSA to engage with States to explore all possible options for modernization of the case processing system, to align with the needs of each State. The Committee continues to request regular updates on the effort to upgrade DCPS, the cost and anticipated timeline of the project, and efforts by SSA to engage stakeholders, including any barriers to implementation.

Disability Hearings Backlog.—The Committee continues to strongly encourage SSA to work with ALJs and other stakeholders to evaluate and implement changes, as appropriate, to streamline and improve the efficiency of the disability adjudication process while maintaining the integrity of disability programs. The Committee directs SSA to include comprehensive information in its existing reports to Congress on the specific policies SSA has implemented, or has considered, to streamline the disability determination and adjudication process.

Field Office Closures.—The Committee remains concerned about decisions to close field offices that may not be in accordance with law, regulations, and SSA procedures. While SSA's Inspector General reviews decisions to close field offices, the Acting Commissioner is directed to take every action possible to maintain operations at the offices under review. The Committee urges SSA to work to find an appropriate balance between in-person field office services and online services for beneficiaries. Further, the Committee continues to expect SSA to support front line operations. SSA Field Office services are critical to helping beneficiaries receive the benefits that they deserve, including providing advice on how to submit disability claims with appropriate and accurate information. The Committee understands that SSA is reviewing its field office consolidation policy and regional business processes in response to reports issued by the SSA Office of the Inspector General (A-05-18-50671 and A-03-18-50720). The Committee directs SSA to submit a plan to the Committees on Appropriations of the House of Representatives and the Senate to improve service delivery at field offices. Finally, the Committee strongly encourages SSA to ensure its policies and procedures for closing field offices include at least 120 days advance notice to the public, SSA employees, Congress, and other stakeholders, which should include a rationale for the proposed closure, and an evaluation of the effects on the public and SSA operations.

Headache Disorders.—The Committee recognizes that migraine is the second leading cause of global disability, and strongly encourages SSA to clarify how best to apply the current Blue Book Listing of Impairments to assess headache disorders-related impairments. The Committee believes this could be useful to claimants, representatives, and adjudicators at all levels of the disability determination

process, providing detailed guidance regarding what evidence is useful and ensuring consistent decision-making. Further, the Committee commends SSA for agreeing to comply with SSA's Inspector General recommendation (A-01-15-50022) to ensure that all listings updates are less than 5 years old by the end of fiscal year 2020. The Committee further urges SSA to ensure that all listings are updated as needed to reflect medical and technological advances.

Occupational Information System [OIS] and Medical Vocational Guidelines.—The Committee notes that SSA recently completed the initial 3-year production data collection phase of OIS and in 2020 will complete the second year of the first 5-year update cycle. SSA estimates they will start using OIS in its disability determination process in 2020, which represents a significant step forward in modernizing and updating the disability insurance program for the 21st century. The Committee continues to direct SSA to include in its annual report on OIS sufficient details on its plans to fully implement OIS in coming years. However, the Committee is concerned that similar progress is not being made in updating medical vocational guidelines which are used to decide more than half of adult disability claims and is a central element, along with updating occupational information, in modernizing the disability determination process. The Committee directs SSA to provide a report to the Committees on Appropriations of the House of Representatives and the Senate within 90 days of enactment on its plan and timetable for updating and modernizing medical vocational guidelines.

Mail and Printing Systems.—The Committee strongly encourages SSA to consider and evaluate modernization of its mail and printing systems and contracts that could result in budgetary savings while improving fraud prevention. The Committee requests a briefing within 60 days of enactment on SSA's current mailing and printing systems and contracts, including relating to Social Security Cards, and any ongoing efforts to modernize or otherwise improve such systems.

Medicare Enrollment Information.—The Committee encourages SSA to work with CMS to consider including information on Social Security Statements on Medicare enrollment rules, including clear and simple information on eligibility for Medicare benefits, late enrollment penalties, equitable relief, and other important or relevant policies as appropriate.

Muscular Dystrophy.—The Committee continues to note that SSA is included in the Muscular Dystrophy Coordinating Committee under the Muscular Dystrophy CARE Act and continues to expect SSA make data available on the rate at which persons with Duchenne and Becker Muscular Dystrophy utilize SSA programs, particularly those focused on promoting employment and community independence such as the Ticket to Work program.

Reconsiderations.—The Committee directs SSA to provide regular written updates on the status of its reinstatement of the reconsideration phase of the disability determinations appeals process in ten States to the Committees on Appropriations of the House and Senate, Senate Aging Committee, Senate Finance Committee, and House Ways and Means Committee. SSA should provide these updates quarterly beginning no later than 90 days after enactment. These updates shall include: (1) an update on the current status of SSA's reinstatement of the reconsideration phase in each State and the agency's timeline for moving forward in each State; (2) information on any new hires made to implement these plans and any staff trainings provided relating to these plans; (3) the number of disability applications received each month in each State, the number of applications moving through each stage of disability determinations appeals process each month in each State and the number of favorable and unfavorable determinations made at each stage in each State; (4) the average and median wait times for determinations at each stage of the appeals process in each State and average and median wait times for the overall disability determinations process in each State; and (5) the number and percentage of individuals who chose not to pursue further appeals at each stage of the appeals process each month in each State. If available data indicates that wait times are increasing for any group of applicants in any of the 10 affected States, SSA shall include in its next update a plan for reversing this increase in wait times.

Social Security Advisory Board.—The Committee recommendation includes not less than \$2,600,000 for the Social Security Advisory Board. This board advises the Commissioner of Social Security and makes recommendations to Congress and the President on policies relating to the OASI, DI, and SSI programs.

User Fees.—Within the total for LAE, the Committee recommendation includes up to \$131,000,000 for administrative activities funded from user fees. This includes up to \$130,000,000 in fees collected from States that request SSA to administer State SSI supplementary payments and up to \$1,000,000 from fees collected from non-attorney claimant representatives.

Video Hearings.—The Committee notes there are concerns with SSA's proposed rule for SSA to determine whether individuals will have their hearing in person or over video teleconference. The Committee directs SSA to provide a report to the Committees on Appropriations of the House of Representatives and the Senate within 90 days of enactment detailing the extent to which video hearing sites meet best practices outlined by the Administrative Conference of the United States in its Handbook on Best Practices for Using Video Teleconferencing in Adjudicatory Hearings, and outlining the process for a disability claimant to request an in-person hearing as a reasonable modification under section 504 of the Rehabilitation Act.

Vocational Experts.—The Committee directs SSA to provide an update within 90 days of enactment on its plan to ensure that vocational experts have the necessary qualifications and expertise.

Work Incentives Planning and Assistance [WIPA] and Protection and Advocacy for Beneficiaries of Social Security [PABSS].—The Committee recommendation includes \$23,000,000 for WIPA and \$7,000,000 for PABSS, the same as the comparable fiscal year 2019 levels, respectively. These programs provide valuable services to help Social Security disability beneficiaries return to work.

Our preliminary read on the Senate Appropriations Committee's recommended level of funding (President's budget request), is that it is \$98,945,000 below the FY 2019 enacted level. We will provide updates as additional information and funding tables become available. In contrast, the House has recommended an increase in funding for SSA and included the following language in their report:

The Committee includes an increase of \$300,000,000 for additional hires and resources to improve public service at SSA field offices and direct service operations, with \$22,000,000 specifically for hiring at teleservice center operations. The Committee remains concerned about the excessive waiting times, benefit delays, and service problems faced every day by Americans who are trying to access their earned benefits. It is the Committee's expectation that this funding will be sufficient to replace all losses in the field offices, teleservice and processing centers, and build additional capacity so that offices can function at appropriate levels.

The differences between the House and Senate will need to be worked out as part of any final funding measure. We will continue to communicate with the Hill regarding SSA's administrative funding needs and provide updates.

NCSSMA Twitter Account

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