

**Subcommittee on Social Security and
Subcommittee on Human Resources
of the
Committee on Ways and Means
Hearing on Commissioner of Social Security's Proposal to Improve the Disability
Process**

**Oral Statement of Hal Daub, Chairman
Social Security Advisory Board
September 30, 2004**

Chairman Shaw, Chairman Herger, Mr. Matsui, Mr. Cardin, Members of the Subcommittees. I appreciate this opportunity to discuss the Commissioner's proposed reforms of the Social Security Disability Process.

The Social Security Advisory Board has carefully studied the disability process over the past several years. We have made many recommendations for fundamental change. We congratulate the Commissioner for boldly tackling this problem. We applaud her and you for making sure that the views of all affected parties are heard and considered.

Today, I want to focus on the hearing part of the overall process. That is where the greatest delays and most serious backlogs occur.

Some of the Commissioner's changes will expedite the hearings process. A consultant study that the Advisory Board commissioned identified inadequate development of the case record as a major reason why claims bog down. The reviewing official position should assure that cases that go on to a hearing are fully developed and include a clear decision rationale. The reviewing official step should result in fewer cases needing to go to the hearings level. It is crucial that the reviewing officials be carefully selected and well trained. Other changes like closing the record after the hearing and eliminating the additional step at the Appeals Council may also serve to reduce timelines by sharpening the focus of the hearing as the final administrative step.

I would make two important cautions, however. First, the proposed reforms will help in the long-run, but they are still in the planning stage. Second, although the proposed changes may ultimately reduce the appeals workload, the appeals process will remain an important element of the system. The Commissioner and the Congress need to continue searching for both short-run and long-run improvements in that process.

As of June 30 of this year, there were 612 thousand people waiting for hearing decisions on their Social Security claims. Over 170 thousand of them have been waiting for more than a year. The agency has become more productive, but the workloads are overwhelming. Pending levels have been rising for 5 years. Just during the current fiscal year, there has been a 43 percent increase in cases that have been in the hearing system

for more than a year. If these backlogs continue to grow, they will make it very hard for the proposed changes to be fully effective.

I would urge both you and the Commissioner to look carefully at the hearings process to find ways to make it operate more efficiently. The Board has spoken with many Administrative Law Judges, Chief ALJs, and employees at the management and staff levels. We have heard many suggestions for improvements. I will just mention a few of the areas we have repeatedly heard comments on:

- the absence of effective rules of procedure,
- the need for more extensive training for judges,
- the need to improve the policy base and to rethink some of the rulings and regulations that many judges believe undercut their ability to deliver supportable decisions,
- the need for more effective management tools to encourage performance.

Also, the Commissioner quite properly designed a set of proposals that she could implement administratively. I hope, however, that you will look at ways that might legislatively support an improved process. The Board has, for example, suggested that you reexamine the possibility of establishing a Social Security court and we have also suggested looking at sharpening the hearing process by including an individual to represent the government position.

I know that this hearing is focusing upon the procedural changes that the Commissioner is recommending. That is an important and urgent need. However, the Advisory Board also believes that the time has come for serious consideration of whether the definition of disability is consistent with our national goals for the disabled. We have issued a report on this and are continuing to look at it. We hope your subcommittees will also begin to seriously examine that issue.