

How SSA's Disability Programs Can Be Improved

Social Security Advisory Board

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FACTS ABOUT THE DISABILITY PROGRAMS

SOCIAL SECURITY DISABILITY INSURANCE (DI) is an insurance program that provides disability benefits based on previous employment covered by Social Security. It is financed out of Social Security payroll taxes (.85 percent each for employees and employers). The cost of the DI program for fiscal year 1998 is estimated at nearly \$50 billion (out of a total of \$372 billion for all Social Security benefits).

To be eligible for DI benefits a worker must:

- have a medically determinable physical or mental impairment that has lasted or is expected to last at least 12 months or result in death and that prevents him/her from performing any substantial gainful activity (requirements differ for those disabled because of blindness);
- be fully insured, i.e., have at least one credit for work in employment covered by Social Security for each year after age 21 and prior to the year he or she becomes disabled; and
- meet a recency of work test, which requires that workers age 31 or older (other than those disabled by blindness) must have worked in covered employment at least 20 of the 40 calendar quarters ending with the quarter in which the disability began, and that younger workers have proportionally less recent covered employment.

In 1998, Social Security Disability Insurance is expected to pay:

- benefits to 4.7 million disabled workers;
- family benefits to over 1.6 million spouses and children of disabled workers; and
- an average monthly benefit of \$722 to disabled workers.

SUPPLEMENTAL SECURITY INCOME (SSI) is a means-tested income assistance program for aged, blind, and disabled individuals (regardless of prior workforce participation) and is funded from general revenues of the Treasury. The SSI program is estimated to pay nearly \$24 billion in disability benefits in fiscal year 1998.

To be eligible for Federal SSI disability benefits an individual:

- must, if age 18 or older, meet the Social Security definition of disability, or, if under age 18, have an impairment that results in marked or severe functional limitations;
- cannot have monthly countable income in excess of the current Federal benefit rate (\$494 for individuals and \$741 for a couple);
- cannot own real or personal property (including cash) in excess of a specified amount (\$2,000 for individuals and \$3,000 for couples); and
- must meet certain other requirements relating to citizenship, residence, and living arrangements.

In 1998, Supplemental Security Income is expected to pay:

- benefits to over 4.2 million low income disabled adults and nearly 1 million disabled children.

At the end of 1997, a total of 10.3 million individuals received either DI or SSI disability benefits. Of these, 1.6 million received benefits under both programs.

Social Security Advisory Board

An independent, bipartisan Board created by Congress and appointed by the President and the Congress to advise the President, the Congress, and the Commissioner of Social Security on matters related to the Social Security and Supplemental Security Income programs.

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I. INTRODUCTION

A. BRIEF DESCRIPTION OF THE DISABILITY PROGRAMS

To most Americans, Social Security is a retirement program. This is understandable, in that retirees and their dependents or survivors make up 86 percent of all Social Security beneficiaries and receive 87 percent of all benefits paid. However, 14 percent of Social Security beneficiaries, or 6.3 million individuals, are receiving benefits either as disabled workers or as dependents of disabled workers. For them, the Social Security disability program--Disability Insurance (DI)--is of vital importance to their well being. It is estimated that a young, average-earning disabled worker and his family will receive about \$285,000 over the course of their lifetime. According to the Social Security actuaries, nearly one out of three young men, and nearly one out of four young women, who are now age 20 will become disabled before reaching age 67.

Since it was enacted in 1956, the Social Security Disability Insurance program has provided income protection that is not otherwise readily available to American workers. Private disability insurance is not a widely provided employee benefit. Only one-fourth of private sector employees have long-term private disability protection (generally group insurance) that is financed, in whole or in part, by their employers. Moreover, even the limited number who have such insurance risk losing it when they change jobs. Thus, for most American workers, the public Disability Insurance program, by covering all those who meet its eligibility requirements relating to earnings and impairment, provides an important form of social insurance protection.

The program is also important from the standpoint of those who finance it. The cost of providing DI benefits in fiscal year 1998 is estimated at nearly \$50 billion (out of a total of \$372 billion for all Social Security benefits). These costs are paid out of payroll taxes levied equally on employees and employers.

In addition to the Social Security Disability Insurance program, the Social Security Administration administers the Supplemental Security Income (SSI) disability program, which in 1998 is estimated to pay nearly \$24 billion in benefits to 5.2 million low income disabled individuals. The SSI program was enacted in 1972, replacing the former Federal-State programs of aid to the aged, blind and disabled. It is funded from the general revenues of the Treasury, and benefits are payable only upon a showing of financial need. In contrast to expectations when the program was enacted that it would mostly serve the aged, SSI is now primarily a disability program, with the 5.2 million beneficiaries who receive benefits based on disability greatly outnumbering the 1.3 million who receive benefits on the basis of age.

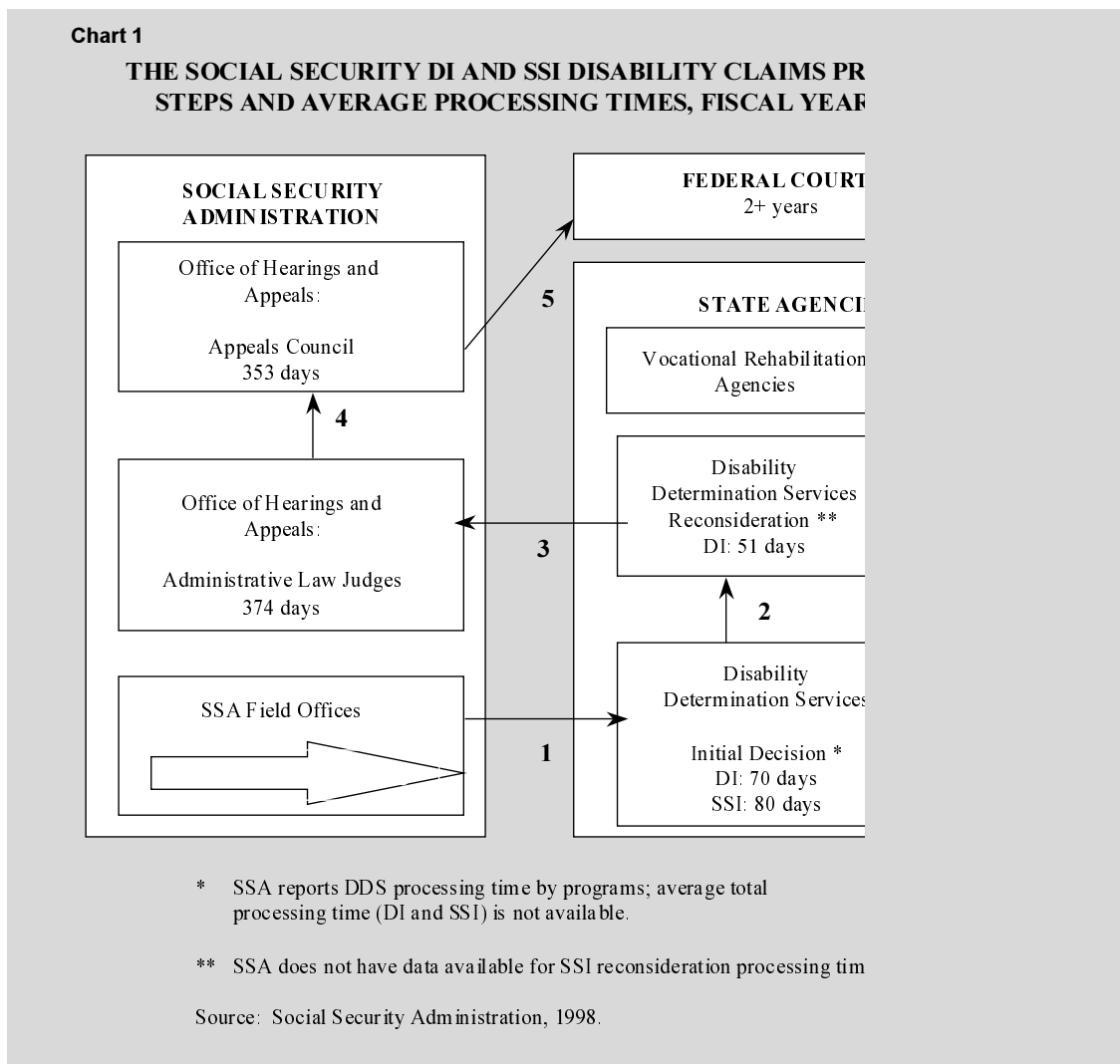
The DI and SSI disability programs use the same statutory definition of disability. This definition has remained essentially unchanged in the last 30 years and is regarded as a strict

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definition by comparison to those used in many other industrialized nations. To be found disabled, an adult must be found to have a medical impairment that will last a year or result in death and that causes inability to perform any substantial gainful work that exists in the national economy, regardless of whether such work exists where the individual lives or whether the individual would be hired. (There is a separate definition for the SSI child disability program.) Unlike in many other industrialized nations, there is no provision for partial or short-term disability.

It is the responsibility of the Social Security Administration to develop the medical and vocational criteria that are used in determining whether an individual meets the statutory definition. This is a complex task that requires expert judgment and continuing review of medical developments and changes in the economy. Determining whether specific individuals meet these criteria is difficult and costly. Making these determinations requires staff who are trained in making both medical judgments and judgments about how impairments affect the ability to work.

By law, determinations as to whether an individual is disabled are made by State agencies (Disability Determination Services) under contract with the Social Security Administration. Although SSA has issued extensive regulations to guide State agency decision making, and also has established a Federal quality review process, these agencies retain a degree of independence



in how they conduct the disability determination process. Individuals who disagree with a State agency's decision may appeal that decision through a multi-level administrative appeals process, which includes a hearing before a Social Security Administrative Law Judge (ALJ). In addition, claimants may appeal to Federal court after the administrative appeals process has been exhausted. (See Chart 1.)

The law provides for referral of DI applicants and of SSI beneficiaries to State Vocational Rehabilitation agencies for rehabilitation services. Those who qualify for disability cash benefits are also generally eligible for medical benefits. Individuals who receive Disability Insurance on the basis of their own disability are automatically eligible for Medicare after a 24-month waiting period. Individuals who are eligible for SSI are automatically eligible for Medicaid except in a few States that are allowed under the law to have more restrictive eligibility rules.

B. THE LONG-STANDING DIFFICULTIES OF ADMINISTERING THE DISABILITY PROGRAMS

Administering the Disability Insurance and SSI disability programs has proved to be a difficult challenge for the Social Security Administration. These programs require a growing portion of the time and attention of SSA staff at all levels. Many Social Security field offices, particularly those in urban areas, are now spending more time serving applicants for either DI or SSI disability benefits than applicants for retirement or survivors benefits. This is reflected in the workloads throughout the agency. In fiscal year 1997, about \$4 billion, or 65.6 percent of the agency's total administrative costs, was spent on disability work. In 1980, slightly more than half (51.8 percent) of the agency's total administrative costs was spent on disability work. (See Table 1.)

Table 1 SSA ADMINISTRATIVE COSTS FOR DISABILITY WORK* (Obligations in Millions)

Fiscal Year	Disability Insurance	SSI Blind & Disabled **	Total Disability	LAE Obligations***	Disability as % of Total
1980	\$694	\$560	\$1,254	\$2,420	51.8%
1985	\$1,206	\$817	\$2,023	\$3,564	56.8%
1990	\$1,281	\$927	\$2,208	\$3,778	58.4%
1995	\$1,889	\$1,625	\$3,514	\$5,462	64.3%
1997	\$2,175	\$1,830	\$4,005	\$6,106	65.6%

* Includes costs of processing claims, appellate actions, continuing disability reviews, and postentitlement activities.

** Estimates assume 85 percent of the SSI administrative costs are for blind and disabled cases and 15 percent are for aged cases.

*** The Limitation on Administrative Expenses (LAE) is SSA's basic administrative account. It is an annual appropriation that is financed from the Social Security and Medicare Trust Funds and the SSI appropriations payment to the Trust Funds for administrative expenses. It provides resources for administering the Social Security program, the SSI program, and certain aspects of the Medicare program that are administered by SSA.

Source: Social Security Administration, 1998

The growing domination of the agency's workloads by the disability programs is not widely understood by policy makers and the public, and the Social Security Administration has not emphasized this development in its public statements. It is incontrovertible, however, that these programs have a significant and growing impact on the agency's ability to serve the general public, and they need to be taken fully into account in the agency's plans for how it will deliver service in the future.

Today's problems have a long history. They stem, at least in part, from the complex administrative structure under which the programs operate, as well as from the fact that determining whether an individual is disabled is fundamentally a judgmental process in which different decision makers will frequently have different views. Today, as in the past, there are serious concerns about the lack of consistency in decision making; unexplained changes in application and allowance rates; the complexity, slowness and cost of the application and appeals process; the lack of confidence in the system; and the fact that few beneficiaries are successfully rehabilitated so that they can become part of the economic mainstream.

At the same time there are several more recent developments that are perceptibly changing the disability programs. The average age of beneficiaries is falling. The fact that more younger people are coming onto the rolls heightens concerns about the weaknesses in the present system for providing services to help them enter or reenter the work force. Individuals with mental impairments constitute an increasing proportion of cases, particularly in the SSI program where more than half of beneficiaries have a mental impairment of some kind. The evidence for these cases is often more difficult to develop, and, because they frequently involve complex psychological issues, they tend to be more difficult for adjudicators to decide than cases involving impairments that are more readily measurable.

In addition, the proportion of claimants seeking the assistance of an attorney in pursuing their claims has nearly doubled over the last 20 years. Currently, about 80 percent of ALJ Disability Insurance hearings involve attorney participation, making the determination process much more of an adversarial and legal process than formerly. Finally, the number and influence of private organizations advocating for the interests of the disabled have grown. These organizations have had an increasingly important role in the deliberations of both the agency and the Congress.

These more recent developments increase the uncertainty about the future development of the disability programs. Will these trends abate, continue, or accelerate? Do they call for adjustments in policy and administration? If so, what changes should be made?

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Disability programs are inherently difficult to administer. The anticipated difficulty of administering a national disability program was part of the Congressional debate, which began in the 1930s, over whether the initial Social Security old age insurance program should be expanded to provide benefits for workers who become severely disabled. In 1965, when the Congress considered the amendments that created today's Disability Insurance program, Members expressed concern about the subjectivity of the disability determination process, the proposed Federal-State administrative structure for the program, and whether the proposals for referring individuals for rehabilitation would be effective.

Oversight hearings held in the fall of 1959 by the House Ways and Means Subcommittee on the Administration of the Social Security Laws (the Harrison Subcommittee) centered on questions about whether disability determinations should be made by State agencies under the supervision of the Social Security Administration, as the law provided, or whether they should be made by SSA itself. In addition to this more structural issue, the Subcommittee raised concerns about the quality of medical evidence used in making determinations, the wide variation among the States in the percent of applications approved, the tension between reducing processing times and a fuller development of the evidence, the inadequacy of State fee schedules for the purchase of evidence, the difficulty for claimants in understanding the complex application process, use of non-medical criteria in making decisions, and the effectiveness of the process for referring individuals for vocational rehabilitation.

The Subcommittee issued a report expressing its concerns, but no corrective legislative action was taken at that time.

In the late 1970s, both the House Ways and Means Committee and the Senate Finance Committee took another in-depth look at the administration of the DI and SSI disability programs, and many of these same issues were raised again. The costs and caseloads of the programs had grown significantly faster than had been projected, and the Committees examined them in this context. They focused on the following issues: the effectiveness of Federal oversight of State agencies, the need for a more effective quality review system, the failure of SSA to carry out continuing disability reviews of beneficiaries on the rolls, backlogs in ALJ hearings caseloads and variability in ALJ decision making, the failure of the Appeals Council to review ALJ allowances, and the lack of success in rehabilitating beneficiaries.

In 1980, the Congress passed legislation that addressed these and related disability issues by giving SSA authority to set standards for the performance of State Disability Determination Services (DDS), with the option of taking over the work of DDSs if they fail to follow the

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Commissioner's rules; requiring the agency to review a percentage of DDS decisions before payment begins; requiring that Disability Insurance beneficiaries whose disability is not permanent be reviewed every three years; requiring the agency to pay for medical evidence provided by non-Federal sources; providing certain work incentives for beneficiaries to encourage them to return to work; and making other changes.

Congress turned its attention to the disability programs again in 1984 and 1996. Legislation in 1984 limited the conditions under which a beneficiary's benefits may be terminated and established standards for obtaining and using medical evidence. In 1996, the Congress tightened eligibility rules by eliminating drug and alcohol addiction as conditions that qualify individuals for benefits, providing a new and stricter definition of disability for children under the SSI program, and requiring continuing disability reviews every three years for children with nonpermanent impairments.

Over the years there have been other studies of the disability programs. In 1986, the Congress passed a law requiring the appointment of a special Disability Advisory Council to study the medical and vocational aspects of disability under the DI and SSI disability programs. The report of the Advisory Council stressed the need to improve the quality and availability of vocational rehabilitation services for beneficiaries, strengthen work incentives, and provide greater uniformity in decision making by establishing more precise eligibility criteria, ensuring that State agencies comply with Federal rules, and altering the quality assurance program.

In 1994, the National Academy of Social Insurance (NASI) published a study of the disability programs that had been requested by the House Committee on Ways and Means. The NASI study included recommendations designed to promote work, such as ways to increase the availability of Medicare and Medicaid, and a tax credit to compensate disabled workers for the cost of personal assistance services needed in order to work. It also included recommendations for administrative actions to promote program integrity, including providing administrative resources sufficient to ensure stable and effective management of the program and to make periodic updates of medical and vocational criteria.

Throughout the years the General Accounting Office has issued many reports on the disability programs. And a number of non-governmental organizations interested in disability issues have issued their own studies.

In summary, from the standpoint of both policy makers and administrators, the disability programs present a long and increasingly difficult set of issues that need to be addressed forthrightly and as promptly as possible.

In 1993, the Social Security Administration established a "Disability Reengineering Team" composed of both State DDS and Federal employees to rethink the disability claims process and to come up with a proposal for improvement.

C. THE AGENCY'S PROJECT TO REDESIGN THE DISABILITY DECISION MAKING PROCESS

In 1993, the Social Security Administration established a "Disability Reengineering Team" composed of both State DDS and Federal employees to rethink the disability claims process and to come up with a proposal for improvement. The agency set the condition that every aspect of the process except the statutory definition of disability, individual benefit amounts, the use of an Administrative Law Judge for administrative hearings, and vocational rehabilitation for beneficiaries would be within the scope of the reengineering effort.

The reengineering team issued a report outlining its proposal to "redesign" the disability determination process in March 1994. After receiving comment, the agency issued a final report in September 1994. The objectives of the new redesigned process were: making the process user friendly for claimants, making the right decision the first time, making the decision as quickly as possible, making the process efficient, and making the work satisfying for employees. Among other changes, it proposed a new disability decision methodology, major changes in the claims taking process, a simpler administrative appeals process, and a new quality assurance process. (For a description of the proposal, see Appendix A.)

The new disability process was to be fully implemented in fiscal year 2001. It was estimated that service to the public, as defined by average processing time, would improve dramatically, and that hearing processing time would also improve substantially. Program costs were to remain unchanged, but it was estimated that there would be a saving in administrative costs of \$704 million through fiscal year 2001, and \$305 million annually thereafter.

Since 1994, the agency has been testing many of the changes that were proposed as part of the Redesign project. The initial very ambitious plan for testing new processes has been scaled back. At this time few decisions about implementation have been made, although the agency has indicated that it expects some important decisions to be made before the end of this year. Based on what the Board has observed, it seems clear at this stage that the projected administrative savings and improvements in processing times are unlikely to be achieved.

The agency's proposal to redesign the system included major changes in the appeals process that would have the effect of eliminating both the reconsideration and the Appeals Council steps. The information we have at this time about the potential effects of these changes is insufficient to assess their impact on either individuals or the process, and we therefore are making no recommendations with respect to them.

However, comments that we have heard from participants in the Redesign tests and from expert observers raise questions about whether eliminating these steps at this time would have the positive impacts that were originally expected. Indeed, there is concern that they might result in adverse consequences, including adding to the ALJ work backlogs and increasing the number of

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cases being sent to the Federal courts without adequate development. This does not mean that simplification of the appeals process is not a desirable goal. However, the elimination of steps in the appeals process should be implemented in the context of a system that can assure consistent, high quality decision making throughout the nation and at all stages of the process. That circumstance does not exist today.

Despite the fact that the Redesign project has not moved forward as the agency originally anticipated, there have been some benefits from the work undertaken. Based on our consultations with individuals working throughout the disability system, it appears that the information that has been developed as part of the Redesign project has contributed to a better understanding within the agency and within the DDSs of the kinds of changes that should be made to improve the way the programs work. We believe the project has also brought about somewhat improved communication and cooperation among the major components that have responsibility for the programs: SSA's Office of Disability (OD), the Office of Hearings and Appeals (OHA), and the State agencies. Although at best only a start, this latter point is important. Historically, one of the major problems of the disability programs has been the friction and disunity that have existed among the administering bodies.

The costs of the Redesign project are significant and cannot be sustained indefinitely. A considerable number of the most experienced and knowledgeable staff both within SSA and the DDSs have been working outside the regular process. Additionally, the uncertainty that has surrounded the outcome of the project has raised concerns about job security and future roles and responsibilities. After five years, it is time to bring the Redesign project to closure by deciding which elements should be implemented and moving forward with them as promptly as possible, and by ending the testing of elements that have not shown convincing evidence of succeeding.

D. THE WORK OF THE ADVISORY BOARD

Recognizing the importance of the disability programs to policy makers and the public, the Board made them one of its first priorities for study as it began its work in the Spring of 1996. Our studies will be on-going, because we recognize that the complex nature of the disability programs requires continuing scrutiny and improvements.

We are issuing this report now focusing primarily on recommendations for administrative improvements because they involve changes that we think are fundamental to improving the way the disability programs operate. We also think they should be implemented as rapidly as possible, recognizing that this may take several years. These changes are important irrespective of whether in the future it is decided that more fundamental changes should be made.

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Over the longer term, policy makers may want to consider the desirability of structural change. There have been proposals in the past to make such changes, including proposals to federalize the existing DDS system, to establish a Social Security court, and to privatize some aspects of the disability determination process. However, there has never been any consensus on these proposals and they have never been favorably reported by either the House Ways and Means or Senate Finance Committees.

There is another important issue for policy makers to consider. In more recent years, there has been a significant change in attitudes regarding individuals with disabilities, which was reflected in the passage of the Americans with Disabilities Act (ADA) in 1990. The ADA prohibits discrimination in employment on the basis of disability. It grew out of the desire of many disabled individuals to have increased opportunities to work, as well as the growing support on the part of the public to find ways to make employment available to them.

Many people view SSA's disability programs, which base eligibility for benefits on a finding that an individual is unable to work, as inconsistent with the employment goals of the ADA. It has been recommended that the definition of disability be changed in some way so that individuals are not required to prove that they are unable to work as a condition of eligibility for benefits. It has also been recommended that additional work incentives and rehabilitation opportunities be built into the disability programs as a way to reduce the inconsistency. In principle, many of these proposals have merit, and there is need for future study and research on the extent to which they may assist disabled individuals in gaining and maintaining employment. Earlier this year, SSA submitted a proposal to Congress that would test the effects of providing disabled beneficiaries with greater choice of providers of rehabilitation and employment services. The House of Representatives has passed legislation creating a new "ticket to work" program that also provides for expanding the choice of service providers. In addition, the House bill provides for continuation of Medicare coverage for individuals participating in rehabilitation and employment programs.

In this report, we address the following questions within the existing legislative and administrative context:

- **Can the disability determination process be made more consistent and equitable?**
- **Can the application process be made faster and more understandable for individuals who are seeking help?**
- **Can the public's trust in the integrity of the programs be strengthened?**
- **Can steps be taken to help disabled individuals continue or return to work?**
- **Can the Social Security Administration and the Congress achieve a better understanding of the dynamics of program changes?**

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We believe these questions can be answered in the affirmative. We recognize that the recommendations in this report will pose a challenge for the leadership of the Social Security Administration and for the many thousands of SSA and State agency employees who will have the task of implementing them. Implementing our recommendations in fact as well as on paper will require a major commitment on the part of the Commissioner and other leadership of the agency. Given past experience, however, it is clear that unless a major effort is made throughout the system, even the best recommendations will have little effect.

In some cases the improvements resulting from our recommendations will likely be incremental, but we believe that in others the improvements could be highly significant. If the agency's objectives are made clear and the necessary resources are provided, progress in meeting them can be made. This progress is critical to generating a higher level of public trust in these important programs.

We have referred above to the disunity that has existed within the disability system for many years. As is described more fully later in this report, although SSA's Office of Disability has the basic responsibility for disability program policy, there are many other components within SSA that play important roles in how the programs are actually administered. In addition, there is a natural tension in the relationship between the agency and the State DDSs, stemming in part from the fact that although SSA pays the full cost of their operations, the DDSs are under the administrative direction of the State governors, who have their own interests and concerns. And as a group, Administrative Law Judges, whose sensitivity about the issue of their decisional independence was heightened after SSA tried to increase its influence over their operations in the early 1980s, have long resisted any measure that they view as threatening to that independence.

The result of these conflicting interests and pressures has been the development of a culture within each of these components of the disability system that makes it difficult for them to work together. They are likely not to view problems in the same way, or even to identify the same problems. Office of Hearings and Appeals (OHA) and DDS decision makers often regard the decisions of the other as simply incorrect. There is resentment and frustration that they do not follow the same rules. The Office of Disability does not always have as good communications with DDS and OHA decision makers as it should. In sum, there is no common vision of how the program should be administered.

Thus, we cannot make the point too strongly that improved communication and greater teamwork are needed if the system is to be improved. This is a major challenge to the agency's leadership. The Commissioner needs to call upon each and every part of the system to work

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Any measures that SSA implements will be in the context of constrained administrative resources. Since 1994, a portion of the disability resources of both SSA and the State agencies has been directed toward SSA's effort to redesign the disability determination process. It is our view that resources diverted to Disability Redesign should be returned as soon as possible so that SSA and the State agencies can fulfill their basic program responsibilities. But in the short term, at least, additional administrative resources for the disability programs will be needed. Many who are familiar with how the disability programs have been administered believe that there have been occasions in the past when limitations on the expenditure of administrative dollars have resulted in poorer quality decisions and higher program costs. It will be important in the future to avoid this kind of perverse tradeoff.

SSA's most recent Strategic Plan set out five goals for the agency. One of them is "to deliver customer-responsive, world-class service." Those who have disabilities are a very important part of the public that the agency has the responsibility to serve. As this report points out, serving individuals with disabilities is generally more difficult for the agency than serving those who apply for retirement or survivors benefits. If the agency expects to meet its goal, it will have to improve the way it delivers services to disabled applicants and beneficiaries. We hope our report will be helpful to the agency in making needed improvements.

In conducting our study of the disability programs, we have met with hundreds of SSA and State agency employees as well as program advocates and Congressional staff. The Board or its staff have visited nine State DDSs, in addition to meeting with administrators from several other States. We have visited Social Security field offices and have met with numerous experts specifically on employment and return to work issues. These include State vocational rehabilitation administrators, program advocates, academicians, researchers, and SSA officials. The Board held a public hearing in San Francisco on January 13, 1998, and heard expert testimony on the topic of employment and rehabilitation for the disabled.

We have benefited greatly from the information and insight provided by all of the individuals with whom we have had the privilege to consult. The views that are reflected in this report, however, are entirely our own. Those involved in the process will have their own perspectives and may not agree with all of our findings and recommendations. We have attempted to look at the programs from the broader perspective of beneficiaries and taxpayers. Our intention is to stimulate the changes needed to improve these programs which are of vital importance to the American system of social protection.

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II. SUMMARY OF RECOMMENDATIONS

MAKING THE DISABILITY DETERMINATION PROCESS MORE CONSISTENT AND EQUITABLE

- The most important step SSA can take to improve consistency and fairness in the disability determination process is to develop and implement an on-going joint training program for all of the 15,000 disability adjudicators, including employees of State disability determination agencies (DDSs), Administrative Law Judges (ALJs) and others in the Office of Hearings and Appeals (OHA), and the quality assessment staff who judge the accuracy of decisions made by others in the decision making process.
- An effective training program presumes the existence of clear policy rules to provide the basis for training. The agency needs to speed up its efforts to establish a single presentation of disability policy that is binding on all decision makers.
- SSA should give high priority to revising its quality assurance system so that it will better serve the goal of unifying the application of policy throughout the disability determination system.
- Providing appropriate guidance to those who have the responsibility for determining whether individuals are disabled requires systematic updating of the listings of medical impairments and of the vocational standards that are used in evaluating whether an individual has an impairment that prevents any substantial work. SSA needs to strengthen its program policy staff in order to be able to perform these basic functions.
- SSA should take steps to improve the development of medical evidence used in determining disability claims, including improving the quality of consultative examinations and providing greater consistency between DDSs and ALJs in the development of evidence.

MAKING THE APPLICATION PROCESS FASTER, MORE EFFICIENT, AND MORE ACCESSIBLE FOR INDIVIDUALS SEEKING HELP

- SSA should provide claimants with a better understanding of program requirements and procedures and improve the development of claims as part of the initial disability interview process.
- A well-designed computer system to support all stages of the disability determination process could speed up the process and provide a more uniform, efficient, and well-managed program. SSA should give high priority to assuring the development and implementation of a system that will provide adequate support to all elements of the disability claims process.

- Some individuals need special help to negotiate the disability application process. SSA needs to train its personnel to identify situations where special help is needed and to see that appropriate assistance is provided.
- Changing the claims and appeals process may be useful, but changes should be implemented with care and should not distract the agency from its ongoing responsibility for managing the disability programs.

STRENGTHENING THE PUBLIC'S TRUST IN THE INTEGRITY OF THE PROGRAMS

- The Social Security Administration needs to establish strong and consistent leadership of the disability programs and encourage close teamwork among all components of the disability determination process.
- Pressures to restrain administrative costs should not be allowed to compromise the quality of decision making.
- Continuing review of the eligibility of disability beneficiaries should remain an important commitment for the agency.

HELPING DISABLED INDIVIDUALS CONTINUE OR RETURN TO WORK

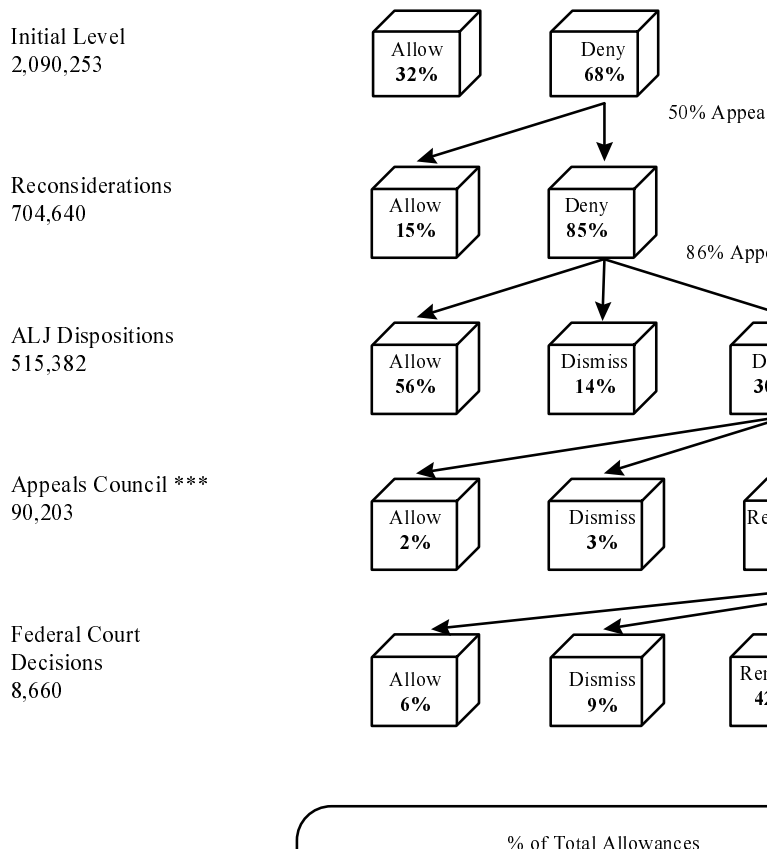
- SSA should help beneficiaries understand the work incentive rules and increase their access to high quality vocational rehabilitation services and to support services that will help them maintain employment after rehabilitation. The agency also needs to clarify and improve its policies for referring individuals for services.
- Disability claimants are often referred for rehabilitation only after they have been found eligible for benefits. SSA needs to conduct rigorous research on whether and how a policy of early referral should be implemented. Research is also needed on possible policy options to help individuals maintain employment by providing retraining or other rehabilitation services prior to providing long-term disability benefits.

PROVIDING A BETTER UNDERSTANDING OF THE DYNAMICS OF PROGRAM CHANGES

- The Disability Evaluation Study, now in its early phases, should be carefully designed and conducted. SSA should consider modifying the study to include longitudinal analysis.
- SSA should initiate other research efforts to help policy makers understand changes in program dynamics and how to respond to them, and the impact of possible future changes in disability policies and administration.

Chart 2

**DI AND SSI DISABILITY DETERMINATION
Fiscal Year 1997***



III. MAKING THE DISABILITY DETERMINATION PROCESS MORE CONSISTENT AND EQUITABLE

A. FINDINGS

- **Both the definition of disability and the administrative structure of Social Security's disability programs make consistent and equitable decision making difficult to achieve.**

The statutory definition of disability requires that eligibility for benefits rests on a determination of whether an individual's impairment is so severe as to preclude engaging in any substantial work activity. This is ultimately a judgmental issue and, at least in many cases, may reasonably be decided differently by different decision makers.

In addition, the administrative arrangements for determining disability are highly fragmented. Although the Social Security Administration has overall responsibility for the program, the law requires that initial determinations of disability be made by agencies administered by the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. This State-based administrative mechanism was established by the Congress in 1954. The rationale was that this arrangement would provide coordination with existing State vocational rehabilitation agencies, and was necessary in order to secure the cooperation of the medical profession, which already had working relationships with the rehabilitation agencies.

Although the State agencies are required to follow the policy guidance of the Social Security Administration, they are not under direct administrative control of that agency. Rather they are a part of State governments which establish their own personnel policies, recruit examiners and medical consultants, provide most of the training, and determine reimbursement rates for purchased evidence.

The law provides that an individual whose claim is denied by the State agency may appeal that decision at a hearing conducted by an Administrative Law Judge (ALJ). This is in an essentially de novo proceeding that often requires a complete readjudication of the case. More than one-quarter (27 percent in fiscal year 1997) of all awards for disability benefits are ultimately made by ALJs at this appeals level. (See Chart 2.) Although individual ALJs must follow the agency's regulations and rulings, the nature of the administrative appeals process requires that they have decisional independence.

A claim that is denied at the ALJ level may be appealed to the Appeals Council, which is the final step in the administrative appeals process. The Appeals Council is within SSA's Office of Hearings and Appeals.

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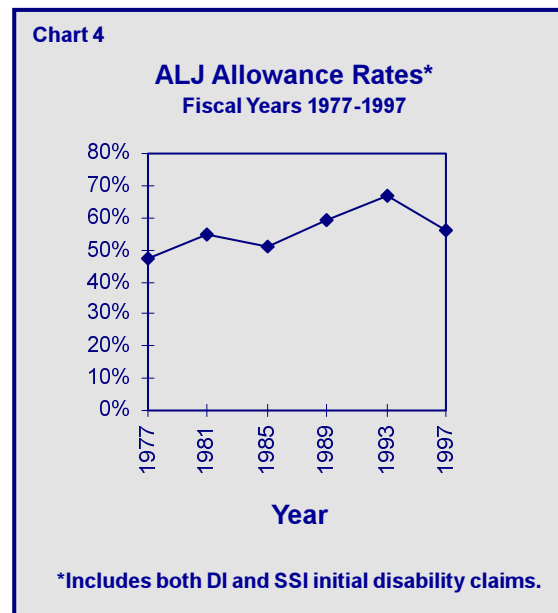
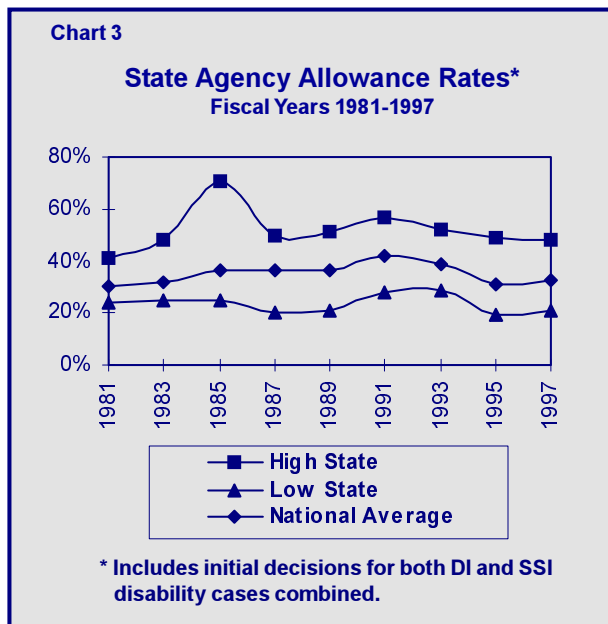
The existing structure of the decision making process contributes to fragmented decision making by virtue of the fact that training and other methods of providing policy guidance for DDSs and the Office of Hearings and Appeals are not well integrated.

- **For many years there have been wide variations in decision making among States and between levels of decision making. These variations remain largely unexplained.**

One of the primary reasons that the disability programs do not share the level of public confidence enjoyed by other programs administered by SSA is the long-standing and widespread perception that the agency is unable to apply the statutory definition of disability in a uniform and consistent manner. As one

individual who is currently engaged in administering the disability determination process observed, “Disability is not a national program.”

There are many symptoms which give rise to this view. Allowance and denial rates, both overall and for specific impairment categories, can vary widely from State to State and region to region, as well as over time, often without clear underlying reasons. For example, in 1997 the percentage of cases that State agencies decided favorably to DI and SSI disability claimants varied from a low of 21 percent in West Virginia to a high of 48 percent in Minnesota, with a national average of 32 percent. Six years earlier, in 1991, the percentage varied from a low of 28 percent in West Virginia to a high of 57 percent in Vermont, with a national average of 42 percent. (See Chart 3.)



One of the primary reasons that the disability programs do not share the level of public confidence enjoyed by other programs administered by SSA is the long-standing and widespread perception that the agency is unable to apply the statutory definition of disability in a uniform and consistent manner.

Claims denied by State agencies and appealed to the hearings level are more likely than not to be approved at the hearings level. The percent of cases reversed upon appeal to an ALJ hearing has varied widely over the years. Allowance rates by ALJs for DI and SSI disability claims stood at 51 percent in 1985, grew to nearly 68 percent in 1992, and fell to 56 percent in 1997. (See Chart 4.) There are also wide variations in ALJ decision making among regions of the country, and even larger variations among individual hearing offices.

These facts raise important questions.

- *Do the variations in allowance rates among States and ALJs mean that the supposedly uniform definition of disability is being applied differently by different decision makers, as well as differently at different times?*
- *To what extent are ALJ reversals the result of a non-uniform application of the law by the State agency and the ALJ?*
- *To what extent are those reversals the result of State agency failure to consider evidence that should have been available?*
- *To what extent are they the result of other factors, such as the worsening of the claimant's condition, or the fact that the ALJ level represents the first opportunity for a face-to-face meeting between the claimant and the decision maker?*
- *To what extent do denials that are not appealed differ from denials that are appealed and allowed?*

Although many who are familiar with the system have strong views about the answers to these questions, the few studies of the determination process that have been made do not provide definitive answers.

The high degree of variability in outcomes seems, on its face, to be inconsistent with a program that is intended to operate uniformly throughout the Nation and is based on a statutory definition of disability that has not changed for 30 years. There are, of course, many factors (such as economic change, the impact of court decisions, and regional differences in income levels and health status) which might to one degree or another explain some of the variations among the States. However, the system cannot provide good information on whether and the extent to which the variations represent a failure to apply program policies and procedures on a uniform basis throughout the country and throughout the SSA system.

The lack of this information is harmful in two important ways. It contributes to a perception that the program is not administered consistently and fairly, and it prevents the policy makers from knowing what corrective action is needed.

- **The office responsible for disability program policy has insufficient resources to keep regulations up to date with medical and vocational change.**

In 1998, the Social Security DI and SSI disability programs combined are estimated to spend about \$73 billion in benefit payments to some 10.3 million individuals. Apart from the Social Security Administration, only the

The high degree of variability in outcomes seems, on its face, to be inconsistent with a program that is intended to operate uniformly throughout the Nation and is based on a statutory definition of disability that has not changed for 30 years.

Defense, Health and Human Services, and Treasury Departments have budgets as large as these disability programs.

Yet the Office of Disability which oversees these large and complex programs and is, in particular, responsible for development of program operating policy, has a staff of about 300 persons, including support staff. Moreover, the ability of even this small staff to function appropriately has been compromised in recent years by the retirement of an aging and experienced workforce, by the fact that staff have been diverted from ongoing policy work to the development and management of the Disability Redesign plan, and by detailing about 7 percent of the staff to the Office of Hearings and Appeals to help with writing decisions to ease that office's backlogs. Despite the obvious need to review program policy rules and keep them up to date, the Office's level of expertise in the medical and vocational areas has declined in recent years.

As a result, the Social Security Administration has been unable to keep the programs' rules up to date with evolving medical technology and vocational realities and to provide appropriate guidance for addressing legislative and regulatory changes in the program.

The law provides that benefit eligibility is to be based on the question of whether the

claimant has a medical impairment that precludes engaging in any substantial work that exists in the national economy, which means work that exists in significant numbers either in the region where the individual lives or in several regions of the country. Essential policy updates to track advances in medical diagnostic techniques, changes in treatment and rehabilitation realities, and the evolution of vocational requirements in the workplace have largely not taken place. The regulations describing the findings necessary to determine disability for various types of impairments have, in most instances, not been revised since the 1980s or even the 1970s. Some of the childhood listings, for example, date back to 1977. With the exception of cardiovascular disease (and revisions needed to implement statutory changes in the definition of child disability that were made in 1996), none of the listings have been updated or even reviewed by a panel of experts in the last 5 years. The vocational standards used for determining eligibility are based on an obsolete Bureau of Labor Statistics survey of occupations which is no longer being conducted.

When policy guidance is allowed to deteriorate and become obsolete in this way, the confidence of decision makers in relying on that guidance is undermined and the ability of the agency to enforce consistent standards throughout the system is compromised.

We urge the Commissioner to make a strong ongoing training program a centerpiece of the agency's effort to improve the accuracy, consistency, and fairness of the disability determination process, and to see that the necessary resources are provided to carry it out.

B. RECOMMENDATIONS

- **The most important step SSA can take to improve consistency and fairness in the disability determination process is to develop and implement an on-going joint training program for all of the 15,000 disability adjudicators, including employees of State disability determination agencies (DDSs), Administrative Law Judges (ALJs) and others in the Office of Hearings and Appeals (OHA), and the quality assessment staff who judge the accuracy of decisions made by others in the decision making process.**

Today, each State disability determination agency operates its own training program for DDS personnel. New Administrative Law Judges are trained by staff in the headquarters of the Office of Hearings and Appeals. The staff that perform SSA's quality assurance reviews in each of SSA's 10 regional offices generally receive training within their own individual offices.

The amount and the content of training these individuals receive varies greatly. For example, some new disability examiners in State DDSs receive three months of training in the medical aspects of making disability determinations, whereas a new Administrative Law Judge receives two weeks of medical training. (SSA increased the amount of ALJ medical training from one to two weeks earlier this year.)

It will require considerable effort for SSA to establish and implement a soundly-structured on-going training program for all decision makers, but we believe this is an essential component in establishing a process that treats people fairly no matter where they live or who is making the decision.

The agency has stated that one of the objectives of its current Disability Redesign efforts is "to achieve similar results in similar cases at all stages of the process..." It has developed the capacity to provide interactive video training across the country, and it has conducted some joint training efforts for ALJs and DDS examiners, including a two-day session which provided training on newly published disability rulings issued by the Commissioner, and a briefer training program on newly issued rules for making determinations in child disability cases.

These are good first steps, but to have real and lasting value, SSA's training program must be both systematic and on-going. At the present time, the agency does not have qualified staff in place to develop, implement, or oversee a comprehensive training program, nor has it developed relationships with outside entities, such as universities, that might help to perform this function.

We urge the Commissioner to make a strong ongoing training program a centerpiece of the agency's effort to improve the accuracy, consistency, and fairness of the disability determination process, and to see that the necessary resources are provided to carry it out.

- **An effective training program presumes the existence of policy rules to provide the basis for training. The agency needs to speed up its efforts to establish a single presentation of policy that is binding on all decision makers.**

When SSA first announced its Disability Redesign project in March 1994 it asserted that the agency would develop a single presentation of "all substantive policies" used in the disability determination process. It said that this presentation of policies would be published

in the Federal Register in accordance with the Administrative Procedures Act. In addition, the agency said that it would develop a single operating manual.

There is broad agreement that a single presentation of policy is needed if the goal of more uniform decision making is to be met. However, today, as in 1994, decision makers at different levels follow different sets of rules.

SSA field offices, State DDSs, and quality assurance reviewers all are bound by instructions presented in SSA's Program Operations Manual System (the POMS), which (according to SSA's description) provides the "substance" of the law, regulations, and rulings issued by the Commissioner, but does not necessarily follow their wording. The POMS is supplemented by other administrative issuances to clarify specific policy issues.

Administrative Law Judges and the Appeals Council, on the other hand, are bound in their decision making only by the law, along with regulations and rulings which have been published in the Federal Register. There is also a Hearings, Appeals, and Litigation Law Manual that provides operating instructions and summaries of court decisions to hearing offices and the Appeals Council.

The agency made a useful and important step toward a single presentation of rules in July 1996 when it published in the Federal Register a series of rulings dealing with areas of decision making that it had identified as major sources of differences in ALJ and DDS decisions. The agency has also said that it intends, in issuing all future rules, to publish them in the Federal Register so that they will be binding on all levels of decision makers.

If SSA is to make substantial progress toward a single presentation of policy, it will have to devote considerably more resources toward this effort than it has so far. The agency published regulations implementing the 1996 welfare reform legislation regarding disabled children in February 1997. Over the last year no significant new regulations relating to disability policy have been published in the Federal Register.

Developing a single, clear presentation of policy is a complex and time-consuming task, requiring highly skilled and experienced staff. For example, there are currently about 6,000 pages dealing with disability in the manual used by DDS examiners. Much of the material is highly technical. Determining what needs to be published in the form of regulations or rulings that will be used by all adjudicators is a difficult undertaking.

The agency was right in making a single presentation of policy an essential part of its Disability Redesign effort. Now it must devote the resources to make it a reality.

- **SSA should give high priority to revising its quality assurance system so that it will better serve the goal of unifying the application of policy throughout the disability determination system.**

The nature of the disability programs is such that there likely will always be some degree of variation in the percentages of claims allowed from year to year, place to place, and component to component, and some uncertainty as to the causes of that variation. However, a well designed quality assurance system should shed light on whether the

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variations represent an underlying failure to achieve appropriate uniformity in applying program policies and procedures. More importantly, such a system should identify problems and provide for their correction through policy clarification and intensified training.

SSA's quality assurance system should be structured so as to cover all levels of adjudication. There are a number of reasons why a State agency decision may be reversed on appeal. Additional evidence or insights may be developed at the formal hearing; the case may involve a "close call" which could reasonably be decided differently by different decision makers; or the applicant's condition may have worsened during the appeals process. On the other hand, either the State agency or the Administrative Law Judge may not have followed prescribed procedures or applied proper policy. Such a failure may be an individual lapse, or it may be representative of errors prevalent within an office or region. Identifying such problems and correcting them should be the function of a quality assurance system that applies as uniformly as possible to both State agencies and the Office of Hearings and Appeals.

Today, the quality system as it relates to State agency decisions operates at three levels. (1) Each State agency has its own internal quality system to check the accuracy of case decisions. (SSA has developed a model for States to follow, but it allows States to differ in the way they operate their systems.) (2) Program quality staff in SSA's regional offices review a random sample of State agency cases.

(3) A much smaller sub-sample of the cases reviewed by regional office staff is re-reviewed at the national level.

In practice, the regional reviews are the ones that get the most attention and create the statistics that are used to indicate the relative "accuracy" of decision making by the various State Disability Determination Services.

This "regionalization" of the review process and the limited central office re-review raise serious questions. The existing system may serve the important purpose of quickly identifying situations where an individual State agency begins to experience problems involving a significant deterioration in its accuracy. However, there is a question as to whether this regionally based system provides valid comparisons of accuracy between States in different regions. Moreover, statistical accuracy is only one goal, and perhaps not the most important goal, of quality assurance. The quality assurance system should be a major tool for identifying and correcting errors in policy and procedure to assure that program policy is implemented in a manner that is consistent and fair to individuals, no matter where they may live, and without undue reliance on the administrative appeals process.

It is important that the Office of Disability, which has responsibility for developing policy for disability program operations, be involved in the quality assurance process. Currently, the Federal quality system is operated by a component within the Office of Finance, Assessment, and Management. This separation

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of quality assurance from the program policy office is probably appropriate. However, if the system is to provide accurate policy guidance, SSA needs to provide for close coordination between the two offices in order to assure that the policy guidance provided by the quality assurance system does not diverge from program policies maintained by the Office of Disability. One way to do this would be to have a system for temporary assignment of staff from one office to the other, so that there would be a continual flow of information and expertise between them. It is also important to ensure that there is a system that gives State agencies or other review entities ready access to the Office of Disability so that they can quickly raise with that office the quality assurance findings which appear to them to involve policy issues.

There are a number of possible approaches that might be considered in making quality review a better tool for attaining greater consistency and equitable decision making in State agency decisions. Consideration could be given to requiring greater consistency among the States in how they operate their own quality review systems, restructuring the regional approach so that each region reviews decisions from all States, introducing some degree of State agency review of decisions from other States, providing a more intensive level of central office review of cases reviewed by the regional offices, or some combination of these approaches.

In July 1998, SSA published final rules in the Federal Register that establish a process for identifying and referring ALJ decisions for review by the Appeals Council. This review will initially use a random sample of cases, but SSA plans to modify the review so that eventually the agency

will be able to use case profiling and other sampling methods to identify cases that involve problematic issues or fact patterns that increase the likelihood of error. It will not identify cases based on the identity of the decision maker or the identity of the office issuing the decision. The purpose of the new procedures is to increase the agency's ability to identify policy issues that need to be clarified through regulations or rulings.

This represents an important step forward in improving the agency's quality assurance procedures. But much more will have to be done if the quality assurance system for the entire decision making process is to be viewed as, and will in fact operate as, a tool for identifying policy issues which require additional training, policy guidance, or policy development for all of the 15,000 disability adjudicators.

Designing a quality assurance system to do this will be a difficult and complex task, and will require the assistance and cooperation of many organizational components with widely varying interests and perspectives. We urge the agency to consider contracting for outside assistance with this major undertaking.

- **Providing appropriate guidance to those who have the responsibility for determining whether individuals are disabled requires systematic updating of the listings of medical impairments and of the vocational standards that are used in evaluating whether an individual has an impairment that prevents any substantial work. SSA needs to strengthen its program policy staff in order to be able to perform these basic functions.**

Designing a quality assurance system...will be a difficult and complex task, and will require the assistance and cooperation of many organizational components with widely varying interests and perspectives.

As noted earlier, many of the regulations describing the medical findings necessary to establish that particular impairments are sufficiently severe to meet the Social Security definition of disability have not been kept up to date with developments in medical knowledge and technology. Similarly, the vocational guidelines currently in use are in large measure based on outdated surveys which inadequately describe an economy that is undergoing substantial change. At the present time, the Office of Disability lacks the resources necessary to address these shortcomings in a timely way.

The Office of Disability has lost substantial resources as a result of the agency's downsizing. In addition, at least part of the reason why disability policy making has not been kept up to date may be found in a diversion of resources from ongoing policy responsibilities to developing and testing the Disability Redesign proposals. It is certainly an important part of the agency's responsibilities to reexamine its ongoing policies and procedures and to try to find ways to improve them. And some elements of the Redesign effort can be useful in making the disability determination process more consistent and equitable. But the exploration and development of potential future improvements should not supersede the responsibility for keeping existing program policy up to date.

SSA needs to take prompt action to strengthen its capabilities in this area. Updating medical listings and assuring an appropriate base for vocational evaluation are tasks that must be done carefully, and it will take time. However, resources need to be brought to bear so that SSA can fulfill its clear responsibility for making sure that disability eligibility determinations are properly made.

The agency also needs to examine why this important function of policy development was allowed to lag so badly and to build safeguards against a recurrence of this situation in the future.

- **SSA should take steps to improve the development of medical evidence used in determining disability claims, including improving the quality of consultative examinations and providing greater consistency between DDSs and ALJs in the development of evidence.**

The Board received testimony at its public hearing in San Francisco, and has heard from disability decision makers as well, that many applicants have difficulty in providing the medical evidence needed to support their claims. We have also heard that pressures to meet processing time goals sometimes lead to unfavorable decisions because the evidence is not provided in a timely way.

The Disability Redesign plan proposed several approaches to address these concerns, including increasing claimant involvement in obtaining medical evidence, involvement of third parties, efforts to achieve greater uniformity in medical reports, working with custodians of medical records, and ultimately relying more on electronic transmission of records. SSA should use every possible tool to improve the medical evidence that is used in making the initial decision. To the extent the agency determines that these elements of the Redesign plan will improve the quality of medical evidence, and therefore improve the quality and fairness of the initial claims process, they should be implemented.

However, there are other areas where improvement appears to be badly needed. In cases where there is not sufficient medical

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evidence to permit a decision on a case, or where there is conflicting evidence, DDSs and ALJs may purchase consultative examinations by a physician. Consultative examinations are particularly important to applicants who may not have a current medical provider or who use public hospitals and clinics which may not have the resources to provide medical evidence to State DDSs.

The Board has heard from program administrators, advocates, and ALJs about the frequently poor quality of consultative examinations. The common complaint is that examinations are too often cursory and of little value as medical evidence, particularly in mental impairment cases. Part of the problem is that many States pay rates that are so low that they have difficulty in finding doctors or other medical facilities that are willing to do them. The Board has also heard reports of fraudulent claims on the part of unscrupulous providers. At its public hearing, witnesses suggested that in mental impairment cases it might be helpful if evidence were provided by nonprofessionals to consulting physicians so that they would have information on how an individual's condition had changed over time.

We are also aware that there is a need to improve the quality of vocational evidence that is provided at ALJ hearings. When an ALJ determines that an assessment is needed of whether an individual can perform work in the national economy, the ALJ calls upon an individual whose name is on a roster of "vocational experts" to provide testimony on this question. These vocational experts participate in about half of all ALJ hearings that involve Disability Insurance, and 41 percent of all cases that involve SSI disability. While these individuals may well have expertise in other matters, there are no requirements to assure

that they have good knowledge of the rules for determining disability for purposes of the DI and SSI programs, and there is no provision for providing them with training on these rules.

The Board is also concerned about the differences in evidence used by the DDSs and ALJs. For example, we have heard complaints that, because of pressures to meet production goals or limits on the ability to make adequate payment, there are too many instances in which DDSs are making decisions without getting all the medical evidence that may be available from a claimant's treating physician or other sources of medical treatment. At the hearing level, staff in the Office of Hearings and Appeals may spend considerably greater time seeking out this evidence, which in many instances is the controlling evidence in rendering a decision.

In another difference between DDS and ALJ decision making, DDSs train their own examiners to evaluate a claimant's ability to work. Some also have vocational consultants on their staffs. In contrast, ALJs, as noted above, do not have in-house expertise, but must arrange for outside vocational experts to provide evidence at hearings when this kind of evidence is needed to make a decision. In addition, DDSs have medical consultants on their staffs to advise their examiners. ALJs do not have medical consultants in their own offices, but sometimes do contract for outside medical expert advice.

The Board urges the agency to look for ways to improve the quality of consultative examinations and to provide greater consistency between DDSs and ALJs in the development of medical and vocational evidence. This should have a positive impact on the entire system, helping to assure that claims are decided properly at the initial decision level, and reducing the likelihood of costly appeals.

The Board urges the agency to look for ways to improve the quality of consultative examinations and to provide greater consistency between DDSs and ALJs in the development of medical and vocational evidence.

IV. MAKING THE APPLICATION PROCESS FASTER, MORE ACCESSIBLE, AND MORE UNDERSTANDABLE FOR INDIVIDUALS SEEKING HELP

A. FINDINGS

- **SSA's disability determination process is difficult for applicants to understand, and results in too many lengthy appeals that impose a hardship on disabled individuals and their families.**

From the standpoint of applicants for benefits, the current disability decision process is difficult to understand, as well as slow and fragmented into multiple levels of processing and decision making. The role of the Social Security field offices and of the State DDSs in the decision process is unclear to most who apply. Staff in Social Security field offices rarely have the training necessary to assure that applicants know how to submit all the medical evidence needed to support their claim. And many who apply never have any contact even by telephone with anyone in the State office where the disability decision is made. The application process is particularly formidable for mentally impaired individuals, who represent a growing portion of those who are applying for benefits.

From start to finish, most individuals whose cases go through the initial decision, reconsideration, and ALJ hearing process will wait well over a year for a decision. This is likely to be a period of considerable economic

hardship for claimants and their families. Historically, about 65 percent of all cases denied by the State DDSs at the reconsideration level are appealed to an ALJ.

In fiscal year 1997, the average length of time for an initial Disability Insurance decision by a DDS was 70 days (80 days for an SSI disability decision). Due to the high backlog of cases, the average time for an appeal to an Administrative Law Judge was more than a year (374 days) from the time the appeal was filed to the time the decision was rendered. Although the number of cases pending an ALJ decision has declined from a high of 526,000 in 1995, it still stands at about 400,000, or more than two and a half times the backlog that existed in 1990.

The hearing process can also be costly for individuals who appeal a DDS decision to the ALJ hearing level. In 1997, claimants' attorneys participated in about 80 percent of all hearings that involved a decision regarding DI benefits. This attorney representation is usually on a contingency basis and is paid for by withholding from benefits that are awarded. About \$490 million was spent on attorneys' fees in fiscal year 1997.

From the standpoint of applicants for benefits, the current disability decision process is difficult to understand, as well as slow and fragmented into multiple levels of processing and decision making.

For cases denied at the hearing step and appealed to the Appeals Council, the final step in the administrative appeals process, the current processing time is also around one year (353 days in 1997). Finally, for the cases that are appealed to the Federal District Court level (about 12,500 cases in 1997), the additional wait can be two or more years. In fiscal year 1997, the courts affirmed 52 percent of the agency's decisions, reversed 6 percent, and remanded 42 percent back to the ALJs.

- **The disability determination process is also costly for the agency.**

In its visits with Social Security staff at all levels of the agency, from field offices to the agency's central office, the Board has been able to observe the high level of time and attention that is devoted to the administration of the disability programs. The complex nature of the

disability determination process is reflected in the fact that two-thirds of the administrative costs of the agency are for work related to the disability programs: initial decisions, appeals, continuing disability reviews, and other postentitlement activities.

It is particularly costly when a case is appealed to the ALJ hearing level. In fiscal year 1997, the cost of making a decision at the ALJ level was \$1,242, compared to \$528 for making a decision at the initial decision level (including intake by the Social Security field office). Reducing the number of cases that go through the appeals process would reduce the cost of administering the programs. However, if DDSs spend more time developing medical evidence and increase their processing times, their costs will rise. And if a reduction in ALJ hearings allowances was more than offset by allowances at the State agency level, program costs could increase.

B. RECOMMENDATIONS

- **SSA should provide claimants with a better understanding of program requirements and procedures and improve the development of claims as part of the initial disability interview process.**

In some cases, an application for Social Security or SSI disability benefits can be quickly and easily decided on the basis of readily available medical evidence. In many other cases, however, the issue will be more complicated, requiring careful consideration of the individual's medical and vocational history in order to reach a decision. It is to the benefit of the claimant and the program that this decision be reached as quickly and accurately as possible.

An important element in meeting this goal is giving the claimant a good understanding of the process and the evidence needed, and enlisting his or her cooperation in gathering that evidence. Ordinarily, the best time to do this is at the initial interview.

An applicant for Social Security or SSI disability benefits is unlikely to know the disability eligibility rules, what is required in the way of evidence, and how the program is administered. Unfortunately, the present system aggravates the problem of taking disability applications by having the initial interview conducted by an employee whose special expertise is in the non-disability aspects

...the present system aggravates the problem of taking disability applications by having the initial interview conducted by an employee...who often has little or no training in the kinds of information needed to process disability claims.

of the process and who often has little or no training in the kinds of information needed to process disability claims. This limits the ability of the agency to convey an understanding of how a particular claimant's condition relates to the requirements for eligibility. In some cases, the absence from the interview of a disability specialist may result in requests for irrelevant medical evidence, or in failure to pursue evidence that is relevant. The interview similarly may miss issues that are important for the disability decision maker to know. And the best opportunity to enlist the claimant's help in obtaining the most important evidence may be missed.

The Board believes that the Social Security Administration can and should improve the initial disability interview process. We also believe that there is an advantage to having the disability part of the interview conducted by the State agency employee who will be responsible

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for deciding the claim, since that individual is in the best position to advise the claimant as to the types of evidence that are needed. Moreover, the claimant's understanding and acceptance of the process will likely be enhanced if, from the start, the individual has contact with the two individuals who will be handling the disability and nondisability aspects of the claim.

There are several possible options for doing this, and some options may be more appropriate in certain circumstances than they are in others. The State agency examiner might

be stationed in the SSA field office. This could be a particularly viable option where the State agency and the field office are located close to each another. The examiner might also conduct the interview by telephone, either while the claimant is in the field office or at a later time that has been scheduled with the claimant. Another option would be to limit dual initial interviews to cases that have characteristics indicating a probability that the case will involve a difficult decision. SSA should work with the State agencies to make an intensified study of a range of possible options.

An important criterion for any option will be whether it can be administered in a way that will assure consistency and equity in decision making.

Because it will take time to develop a new system for taking disability claims that can be implemented nationwide, SSA should take immediate steps to improve the initial disability interview by providing increased training and supervision of field office personnel so that they are able to explain the requirements of the disability programs and to help claimants provide the necessary evidence. One option the agency should consider is to train some claims representatives as disability specialists. These claims representatives would receive special training on the kinds of information that the DDS needs to make a decision and how to help the claimant in providing that information.

The Board is concerned that recent downsizing initiatives have significantly reduced the level of supervision in SSA field offices. In a program with the costs, importance, and complexity of those administered by the agency, it is crucial to assure that field offices have sufficient supervisory staff to provide necessary ongoing training of front-line personnel and to monitor their activities.

SSA is testing another way of handling disability claims as part of its Disability Redesign project. This is to train one individual in both the disability and non-disability aspects of the program, so that one individual could take the claim and handle it to completion. This individual would be known as the Disability Claim Manager. The Board has discussed this proposal with SSA claims representatives and with DDS employees and has heard almost universal skepticism that it is feasible for the agency to train a sufficient number of individuals who will be able to handle both aspects of taking a claim. The Board recommends that the agency look to other ways of improving the initial interview process.

- **A well-designed computer system to support all stages of the disability determination process could speed up the process and provide a more uniform, efficient, and well-managed program. SSA should give high priority to assuring the development and implementation of a system that will provide adequate support to all elements of the disability claims process.**

Because the Social Security disability claims process is highly fragmented, it is prone to delays and errors as the claim passes from one entity to another and as communications are required among the different entities and outside providers of evidence. A well designed and implemented computer system could ameliorate these problems.

A computer system supporting all levels of the disability claims process would facilitate communication among the various entities, eliminating the delays that now occur as the case folder is physically shipped from one location to another. There would be less likelihood that evidence would go astray, and a greater capacity to monitor the status of the claim at any given time.

Medical providers are increasingly using computerized systems for maintaining their records and a disability claims system should be able to allow such providers to provide evidence more quickly, inexpensively, and perhaps even more accurately. It should also be possible to build into such a system a significant level of technical quality review and of policy guidance, thus lending support to the overall goal of a more consistent and unified claims process.

A computer system supporting all levels of the disability claims process would facilitate communication among the various entities, eliminating the delays that now occur...

SSA currently has a new, uniform disability claims process system under development. This is a complex task since such a system must be able to function in a uniform manner throughout the entire program structure. While this system must enforce a uniformity of processing on all of the entities involved, it must also be designed so that it meets their particular system needs. In the case of the State disability agencies, there is a special requirement that it be able to communicate appropriately with the other offices in State government.

The development of a computer system to support the entire disability claims process holds promise as a large step in the direction of a faster and more uniform, efficient, and well-managed disability program. However, that promise will be realized only if the system is carefully designed and implemented. SSA should give high priority to developing and implementing such a system and

must devote adequate resources to assure that the system will work as intended.

- **Some individuals need special help to negotiate the disability application process. SSA needs to train its personnel to identify situations where special help is needed and to see that appropriate assistance is provided.**

In 1997, SSA received 1.2 million applications for Disability Insurance benefits and 1.4 million applications for SSI disability benefits. Clearly, in order to deal with this massive caseload, SSA must have a fairly standardized system of procedures for processing these applications. Nonetheless, each claimant is an individual whose needs and circumstances are unique. The overall purpose of the program is to provide disability income to those persons who meet the qualifying requirements. To achieve that objective, the program must be flexible enough to provide additional assistance in pursuing claims to individuals who need such assistance.

...the program must be flexible enough to provide additional assistance in pursuing claims to individuals who need such assistance.

Some claimants may have only a vague and possibly incorrect understanding of the nature of their disability and may have had limited or no medical treatment. Treatment providers may have incomplete records or may be unresponsive to requests for documentation. Particular problems may arise in cases where the claimant suffers from a mental impairment which limits his or her ability to pursue the claim, where the

claimant has limited facility with the English language, or where a significant part of the claimant's medical treatment or vocational experience took place in a different country.

SSA and DDS staff, as well as advocacy groups, have advised that the agency needs to train its field office and State agency personnel to identify situations where the circumstances of the claimant limit the individual's understanding of what is needed to support the claim, or make it necessary to provide special assistance in obtaining evidence. To some extent our recommendation for an improved initial interview process should help respond to this need. But the agency should take additional steps to assure that claimants needing individualized assistance are identified and that adequate resources are allocated to assure that such assistance is available at each stage of the claims process.

- **Changing the claims and appeals process may be useful, but changes should be implemented with care, and should not distract the agency from its ongoing responsibility for managing the disability programs.**

The recommendations made in the preceding parts of this report relating to improving the initial contact with the claimant, better development of medical evidence, more on-going and unified training, completion of the single presentation of policy, and a revamped quality assurance system aimed at unifying the application of policy should all serve to improve the claims and appeals process.

However, it may be that there are improvements that could be achieved by changing certain features of the existing process. SSA has been testing a number of these changes, including eliminating the requirement that a medical professional participate in each disability determination at the State agency level, providing the opportunity for an interview prior to issuing

an adverse initial determination, the elimination of the reconsideration stage of the appeals process, and the introduction of a new “adjudication officer” (AO) function to prepare cases for a hearing before an Administrative Law Judge.

At this time the Board does not have sufficient information to make recommendations with regard to these possible changes. SSA should rigorously review the results of testing to date to see if any of these changes are shown to improve the process without the risk of erroneous allowances or other adverse consequences. If it decides to proceed to implementation, however, SSA needs to be cautious. Results under test conditions may prove more favorable than the ultimate results under “real world” conditions.

Although State DDSs vary in the degree of medical involvement in decision making, determinations are now generally made jointly by a lay examiner and a medical professional. One element now being tested, called “single decision maker,” proposes to have these decisions made by the lay examiner with consultation by the medical professionals only in complex cases. The expectation was that this approach would reduce administrative costs. However,

medical judgments are at the heart of the current disability determination process, and this change, therefore, carries some risk of decreased accuracy. If SSA decides that the test results justify implementing this change, any such implementation should be gradual, starting with highly experienced examiners, and perhaps limited to specific types of cases. In addition, SSA should build in safeguards to assure that accuracy is maintained under full implementation conditions, including conditions involving large, unanticipated workloads.

While SSA has a continuing responsibility to review its processes and procedures with a view to making them more effective and efficient, the current large scale experimentation with modified processes has been consuming significant administrative energy and resources for a protracted period of time. As indicated earlier in this report, the Board believes that the time has come for the agency to conclude the testing of those elements which do not show significant potential for near term implementation and redirect those resources to carrying out its ongoing responsibilities and to meeting the more basic needs for improvements in training, policy guidance, and quality assurance.

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V. STRENGTHENING THE PUBLIC'S TRUST IN THE INTEGRITY OF THE PROGRAMS

A. FINDINGS

- **The disability programs provide vital assistance to some of the nation's most vulnerable individuals. If these programs are to have the public support needed to maintain protections, they must be perceived to be accurately and fairly administered.**

For most Americans, the wherewithal to obtain food, clothing, and shelter and to meet their other material needs comes primarily from earnings from employment or self-employment. When struck with a disabling impairment, therefore, an individual typically faces economic as well as health issues. SSA's disability programs provide an important level of protection to limit the adverse impact of such calamities.

Eligibility is limited to those with disabling conditions that can be expected to last for at least a year or result in death, and the impairment must be sufficiently severe to preclude the individual from engaging in any substantial employment. Eligibility is determined by trained professional evaluators who review the impairment under detailed rules that require that allegations of disability be supported by relevant medical evidence. In the case of Disability Insurance, benefits can be paid only if the disabled worker has had a substantial connection with the work force. Under the Supplemental Security Income disability program, benefits are payable only if the individual is not only disabled, but also has very little in the way of other income or assets.

Payments under both programs are modest. In 1998, Disability Insurance benefits average \$722 per month. The Federal payment standard for an individual receiving SSI in 1998 is \$494 per month.

Given the limited nature of these programs and the important protection they afford, one might expect that they would enjoy broad public acceptance and support, and to a considerable extent that is the case. However, the level of public confidence in the integrity of these programs can be and has been undermined by a number of developments.

In some cases, there has been extensive press coverage of situations which, although representing a small part of the caseload, have tended to raise questions of propriety, such as instances of benefits being paid to persons in prison or of children drawing benefits because of conditions that some may regard as not truly disabling. The programs are by nature somewhat susceptible to instances of abuse, and in the past there has been inadequate funding of investigations dealing with suspicious situations. Although SSA has made combatting fraud a major goal of the agency and funding for the Office of Inspector General has been increased, the Board found that even within the agency itself there is some concern that the effort to assure the integrity of the program may not be sufficient.

Given the limited nature of these programs and the important protection they afford, one might expect that they would enjoy broad public acceptance and support....However, the level of public confidence in the integrity of these programs can be and has been undermined....

Fluctuations in caseloads from year to year in ways that cannot be adequately explained also have given rise to concern among the public and in the Congress about the integrity of the programs. Failure of the agency in the past to conduct reviews of continuing eligibility led Congress in 1980 to mandate a specific schedule for such reviews for Disability Insurance beneficiaries. This mandate was often not met in years when budget and workload problems caused the agency to give priority to other tasks. Variations from State to State in allowance rates,

the complexity and length of the appeals process, and the continuing high level of reversals of State agency decisions all contribute to the perception of programs that could be better managed.

It does not help that within the agency itself the different decision making components disagree as to what the problems are and who is responsible for either causing or solving them. The culture of the programs, as it has evolved, has unfortunately not encouraged the teamwork that is necessary for fair, accurate, and consistent decision making.

B. RECOMMENDATIONS

- **The Social Security Administration needs to establish strong and consistent leadership of the disability programs and encourage close teamwork among all components of the disability determination process.**

The disability programs represent the smaller part of the Social Security Administration's benefit expenditures. The Old-Age and Survivors Insurance (OASI) program is far and away the largest element in terms of number of beneficiaries and the cost of benefits and therefore has tended to shape the nature of the agency. The requirements for running the OASI program are, however, far different from those for running the disability programs. For the most part, OASI policies are stable and are grounded in straightforward, specific statutory requirements. Administration of the OASI program is carried out entirely by SSA employees using agency-wide procedures and systems.

By contrast, the disability programs are grounded in complexity and subject to greatly

diverse pressures. While based on a statutory definition, the actual meaning of disability is to a considerable extent determined through policies that need continual review as changes occur in medical knowledge and technology. Changing vocational realities also have an impact on how the disability definition is applied, and, because disability policy is less objectively grounded, the agency policy development process has to deal with sometimes diverse viewpoints within and outside the agency, including those of the Office of Disability, the 54 State agencies, the Office of Hearings and Appeals, the Office of Quality Assurance and Performance Assessment, the courts, and organizations representing claimants and other outside entities.

Even apart from any formal policy making, the meaning of disability as actually applied can be affected by administrative developments. The most obvious example is the common perception that pressures to reduce backlogs or processing times or to address growing program costs can send informal but very significant signals that result in a tighter or looser application of the disability definition.

The culture of the programs, as it has evolved, has unfortunately not encouraged the teamwork that is necessary for fair, accurate, and consistent decision making.

Both the Office of Disability and the Office of Hearings and Appeals are within the Office of Disability and Income Security Programs, which has overall responsibility for disability program policy as well as for program policy for Old-Age and Survivors Insurance and SSI.

However, as described in Appendix C, important aspects of the disability programs are spread throughout many other parts of SSA. The dispersion of functions throughout many different entities poses a particularly difficult problem for the disability programs, which lack the tightly defined policy and administrative parameters that are typical of the OASI program. For example, the development of a redesigned disability computer system may appropriately rest with the Office of Systems, but that entity may not be in the best position to evaluate the impact of that new system on relationships between hearing offices and the State Disability Determination Services.

The Commissioner should send a strong and continuing message throughout the organization that serving the public requires close teamwork by all components.

The disability quality assurance system is operated by the Office of Quality Assurance and Performance Assessment. In theory, this system simply provides a measure of the extent to which determinations are following agency policy with respect to standards of eligibility and documentation requirements. In practice, because subjective judgments are crucial in the disability programs, the quality process has a

significant ability to shape disability policy and impact program costs and caseloads through subtle messages imparted by tighter or looser reviews, the kinds of decisions selected for review, or even by increased or decreased sampling rates.

The existing structure of SSA necessarily disperses many functions with substantial impact on the disability programs among different organizational entities. Although the Board is not suggesting that a general reorganization is needed to deal with the problem, we believe that the leadership of SSA must be especially cognizant of the potential that this dispersion of functions has for significant impact on disability policies, practices, and caseloads. SSA should consider establishing a mechanism for monitoring and, as necessary, coordinating all aspects of disability program policy and operations, including assuring that State agencies administer the programs according to Federal rules. Accountability needs to be built into the system. The Commissioner should send a strong and continuing message throughout the organization that serving the public requires close teamwork by all components.

- **Pressures to restrain administrative costs should not be allowed to compromise the quality of decision making.**

In administering the disability programs, SSA and the State agencies face a number of competing priorities. By nature the process is expensive to administer, and there must be a continuing effort to operate efficiently and to avoid unnecessary costs. Claimants by definition have lost income from employment or are needy, or both, and the system should reach a decision as promptly as possible. While these requirements exist and cannot be ignored, SSA must make sure that the highest priority is to make the right decision.

SSA faces a difficult reality in that, for purposes of budgeting, the Administration and

the Congress consider the costs of administering the SSA programs as controllable, while benefit costs are viewed as entitlements not subject to the full range of budgetary controls. Therefore, there are pressures on the agency and on the Congress to reduce SSA's expenditures for administration. This can undermine program management in ways that ultimately result in inappropriate benefit costs that may far exceed the administrative savings.

There are also pressures to meet processing time goals, arising partly from administrative cost concerns and partly from the need to assure that claimants receive decisions on a timely basis. These are important concerns. However, there is always the danger that the pressure to meet processing time goals, because they are easily measured, will override program needs which are also essential but are more difficult to quantify, such as adequate levels of training, review, and accuracy.

In the long run, getting decisions right initially will be the cost-effective approach.

The disability programs face a particular problem because of the difficulty that is sometimes encountered in gathering evidence. To arrive at a correct decision, the State agency must obtain reports from the doctors, hospitals, and other medical providers who have treated the claimant and, in some cases, must request additional consultative examinations to resolve issues not clearly addressed by other evidence. However, medical providers may not always respond promptly to requests for evidence. Scheduling of a consultative examination can delay the processing of a claim. And administrative costs will be affected by the quantity and quality of such consultative examinations.

The inherent difficulties of balancing these priorities can be aggravated by unanticipated workload fluctuations. Applications for disability benefits can rise or fall based on difficult-to-predict factors such as the state of the economy. Legislative changes or court decisions can result in workload increases without adequate lead time for the necessary expansion and training of the workforce. In the past, SSA has had to contend with all of these factors.

While a perfect balance among competing priorities may not be achievable, SSA needs to establish correct decision making as the primary objective and assure that adequate resources are provided for all components of the disability process on a consistent basis. The Congress must also recognize the need for adequate resources. In the long run, getting decisions right initially will be the cost-effective approach. The benefit costs of an incorrect allowance will far exceed any administrative savings from making a decision based on inadequately developed evidence. If the initial decision is an incorrect denial, the case is likely to proceed to the much more costly appeals process.

- **Continuing review of the eligibility of disability beneficiaries should remain an important commitment for the agency.**

Because the Social Security disability definition limits eligibility to individuals with severe impairments, there are many who will stay on the benefit rolls for their entire remaining lifetime. However, it is possible to qualify for benefits on the basis of a temporary disability, provided that it is expected to last at least a year. In addition, some beneficiaries with longer lasting impairments may experience medical improvements which make them no longer disabled, or advances in medical treatment and technology may lessen the impact of a disabling condition. There is also the possibility that an individual will have been awarded benefits erroneously.

SSA has a responsibility to periodically review the status of individuals on the benefit rolls and to terminate benefits for individuals who are found to be no longer disabled. The Social Security statute establishes standards for termination so that an individual will not be removed from the rolls simply because a later reviewer makes a different judgment call than the original adjudicator. However, in cases where there is medical improvement or which involve medical advances that make the condition no longer disabling, or where there is evidence that the original decision was erroneous, the agency can and should cease paying benefits.

This responsibility for continuing review of eligibility is sufficiently important that Congress has mandated by law that SSA review the eligibility of Disability Insurance beneficiaries at least every three years. There are also requirements to review the eligibility of SSI children every three years. An

exception is made for individuals found to be permanently disabled.

Even though most of those reviewed will be found to remain eligible, it is important that continuing disability reviews be carried out, both because of the large financial impact that each ineligible recipient has on the program and also because an effective review program will tend to increase the confidence of the public in the integrity of the program.

SSA is currently attempting to meet the statutory review requirements, and expects to conduct more than one million reviews in 1998. This reflects a substantial improvement from the recent past. In the early part of the 1990s, as few as 116,000 reviews were conducted and the average per year from 1990 through 1995 was less than 200,000. In its Accountability Report for fiscal year 1997, SSA pledged to process all legislatively required continuing disability reviews. This is a commitment that needs to be continued in future years.

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VI. HELPING DISABLED INDIVIDUALS CONTINUE OR RETURN TO WORK

A. FINDINGS

- **Despite Social Security and SSI work incentive provisions, few beneficiaries are engaged in work or leave the rolls because of employment.**

The Social Security Disability Insurance program became law in the mid 1950s and the SSI disability program was enacted in the early 1970s. From the beginning, both of these programs have provided for referring beneficiaries for participation in rehabilitation services and have included other provisions aimed at supporting return-to-work efforts.

In recent years, there has been increasing focus on the value of providing the disabled with the necessary assistance and accommodation to enable them to continue or return to productive employment. The most widely recognized sign of this growing interest in rehabilitation and work is the adoption of the Americans with Disabilities Act. However, over the years there have also been a number of significant amendments to the Social Security disability programs reflecting the objective of helping disabled individuals to return to work.

In the Disability Insurance program, these include a temporary extension of Medicare eligibility for persons returning to work, an extended eligibility period to provide better protection against the risks of an unsuccessful work attempt, and the exclusion of impairment

related work expenses in determining whether an individual is engaging in substantial work activity.

In the Supplemental Security Income program, individuals who return to work despite continuing severe impairments may now continue receiving cash benefits as long as they meet the income standards, and may retain their Medicaid eligibility as long as it is needed in most cases. The law provides for reimbursing State Vocational Rehabilitation (VR) agencies for the costs of rehabilitation services that result in a DI or SSI beneficiary performing substantial gainful work for a period of nine consecutive months.

Despite the statutory work incentives in these programs and despite the widespread acceptance of the principle that rehabilitation is an important objective, a relatively small proportion of beneficiaries actually do return to work. In the SSI program, about six percent of beneficiaries have work activity. Over three-fourths of those working earn below \$500 a month, and nearly a third earn \$65 or less. In the Disability Insurance program, fewer than one-half of one percent of beneficiaries leave the rolls because of work. In 1997, out of a population of about 7 million Social Security disabled workers and SSI disabled adults, referrals to State Vocational Rehabilitation agencies resulted in only 8,337 successful

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rehabilitations resulting in work that was sufficient to qualify State agencies for reimbursement of the services provided.

To a large extent, the small incidence of return to work on the part of disability beneficiaries reflects the fact that eligibility is restricted to those with impairments which have been found to make them unable to engage in any substantial work activity. By definition, therefore, the disability population is composed of those who appear least capable of employment. Moreover, since eligibility depends upon proving the inability to work, attempted work activity represents a risk of losing both cash and medical benefits. While some of this risk has been moderated by the work incentive features adopted in recent years, it remains true that the initial message the program presents is that the individual must prove that he or she cannot work in order to qualify for benefits.

The small incidence of return to work on the part of disability beneficiaries may also reflect inadequate or ineffective use of the provisions of law providing for referral to rehabilitation services.

There are a number of issues that need to be addressed. The agency has no clear policy

on who should be referred. There are significant differences among State DDSs in referring DI and SSI beneficiaries to State Vocational Rehabilitation agencies, and in the extent to which these beneficiaries actually receive services. Only about 297,000 individuals were referred to State VR agencies by State DDSs in 1997.

While the State rehabilitation programs have been modified in recent years to place more emphasis on serving severely disabled individuals, there remains a perception that some agencies do not put sufficient emphasis on serving DI and SSI disability beneficiaries. In some cases, referrals by State Disability Determination Services are essentially pro forma and do not provide useful information to the rehabilitation agencies. State Vocational Rehabilitation directors have reported long delays in reimbursement by SSA for the rehabilitation services that have been provided to beneficiaries. Despite wide agreement that rehabilitation services can be most helpful if provided as early as possible after the individual becomes disabled, Social Security referrals often take place only after the individual has been found eligible—a process that can take months and often years to complete.

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B. RECOMMENDATIONS

- **SSA should help beneficiaries understand the work incentive rules and increase their access to high quality vocational rehabilitation services and to support services that will help them maintain employment after rehabilitation. The agency also needs to clarify and strengthen its policies for referring individuals for services.**

For most beneficiaries, rehabilitation to self sufficiency will represent a challenge requiring substantial assistance and great motivation. In many cases, the potential financial gains of working may compare poorly with the risk of loss in cash benefits and medical coverage if the work activity results in a termination of benefit entitlement. Expectations about the impact of increased rehabilitation efforts on Social Security disability costs and caseloads should not, therefore, be overly optimistic.

On the other hand, disabled individuals who have the potential and motivation to engage in productive employment should be helped to do so. Under the existing provisions for reimbursing State rehabilitation agencies, the cost per person rehabilitated is about \$10,000, while DI benefit costs for a young average-earning disabled worker and his family are estimated to be about \$285,000 over their lifetime. The importance of assisting beneficiaries in returning to work is even greater than in the past, because the average age of beneficiaries is declining and more young adults are receiving either DI or SSI benefits. Without help, these younger individuals may spend all or a large portion of their adult lives on disability.

The Board believes that the Social Security Administration can and should continue to improve its efforts to assist beneficiaries in returning to work.

The Disability Insurance and SSI disability programs incorporate numerous provisions designed to provide incentives for work activity. Unfortunately, the number and complexity of these incentives tends to make them difficult to comprehend.

SSA needs to make sure that its field personnel (and those who answer the 800 line) have a thorough understanding of these provisions. As part of the initial claims interview, applicants should be made aware of the existence of work incentives and should be encouraged to take advantage of them. As necessary, procedures should be adopted to facilitate claimants' use of the provisions. For example, the Board has received comments from advocacy organizations indicating that field offices do not have consistent and understandable procedures for taking earnings reports from beneficiaries. This situation creates confusion which may well translate into reluctance to risk working.

The Board has been told that many applicants and beneficiaries are unaware of the fact that SSA is required to review their continuing disability on a periodic basis. SSA needs to make certain that this information is provided when a claim is filed so that individuals understand that there are circumstances under which their benefits may be terminated at some point in the future. This must be done in a positive and straightforward way. The purpose is to help individuals understand the program's rules, not to

As part of the initial claims interview, applicants should be made aware of the existence of work incentives and should be encouraged to take advantage of them.

intimidate or discourage application. The knowledge may help some to recognize the value that rehabilitation services could have for them in planning their future.

The system of referrals for rehabilitation services should be thoroughly reviewed with a view to resolving outstanding issues. SSA needs to work with State DDSs and Vocational Rehabilitation agencies to make sure that the statutory provisions for referring beneficiaries for services is carried out in a way that serves beneficiaries in all States. The Board has been told that SSA has been taking steps to strengthen its relationship with State Vocational Rehabilitation agencies and to encourage greater national consistency in referral policies. The agency should increase these efforts, and should also work with the State agencies to see what other steps can be taken to improve the provision of services. Where State Vocational Rehabilitation agencies provide services that lead to employment meeting the requirements for reimbursement, SSA should assure that prompt payment is made of the amounts due.

Helping disabled individuals find employment is only half the job. Also important is helping them to retain employment. Individuals with disabilities often face challenges to their continuing employment that are as difficult to overcome as securing employment in the first place. If an employment strategy is to succeed, SSA will have to assure that the system for

delivering rehabilitation services has built into it a way to provide support services for those who need them to remain in their jobs.

In 1994, SSA published a regulation that permits certified vocational rehabilitation providers other than State VR agencies to receive reimbursement for services provided to DI and SSI disability beneficiaries. So far the participation by these private providers has been limited, most likely due to the statutory provision that allows reimbursement for services only after successful rehabilitation.

In addition, SSA has submitted a legislative proposal to restructure the way rehabilitation services are provided to its beneficiaries so as to make greater use of private providers, and a bill to do this has passed the House of Representatives. There is undoubtedly much to be gained by increasing the choice of providers that beneficiaries may turn to for needed services. But if SSA is given the statutory authority to implement a new delivery system it will have to take considerable care to assure that beneficiaries receive high quality services, and that providers do not promise outcomes that they cannot fulfill. Exercising this important quality control function will require additional resources, and this should be recognized by both the agency and the Congress. Even if much of the responsibility for administration were to be contracted to outside organizations, SSA would require additional resources to oversee the program. It will not help beneficiaries if a new delivery system does not have the staff to see that it is properly administered.

...if SSA is given the statutory authority to implement a new delivery system it will have to take considerable care to assure that beneficiaries receive high quality services, and that providers do not promise outcomes that they cannot fulfill.

- **Disability claimants are often referred for rehabilitation only after they have been found eligible for benefits. SSA needs to conduct rigorous research on whether and how a policy of early referral should be implemented. Research is also needed on possible policy options to help individuals maintain employment by providing retraining or other rehabilitation services prior to providing long-term disability benefits.**

The present system of referring individuals for vocational rehabilitation services is often the last step in the eligibility determination process, and many States refer more individuals who have been found eligible for benefits than those whose applications for benefits have been denied. This is consistent with Social Security's statutory reimbursement scheme under which State rehabilitation programs receive payment only for those individuals who actually receive benefits and who subsequently are placed in substantial gainful activity.

It is not at all clear, however, that this is the most helpful and appropriate approach. Many believe that rehabilitation is more likely

to succeed if it is begun soon after the onset of the disability. Thus, the present approach may, for some individuals, be losing the best opportunity to help them find productive employment. This works to the disadvantage of both the individual and the program.

SSA should conduct rigorous research to determine whether and how a policy of early referral should be implemented.

The efforts made in other programs to get individuals who have suffered an illness or injury quickly back to work should be examined. These include both State workers' compensation programs and programs operated by the private sector.

Some countries, such as Germany and Sweden, have policies that emphasize intervention through retraining or rehabilitation services before the provision of disability benefits, thereby helping individuals who become disabled to maintain their employment status. We believe that it would be valuable to examine how these policies are working and whether they could or should be tried in the United States. We urge SSA to take the lead in initiating this kind of study.

SSA should conduct rigorous research to determine whether and how a policy of early referral should be implemented.

VII. PROVIDING A BETTER UNDERSTANDING OF THE DYNAMICS OF PROGRAM CHANGES

A. FINDINGS

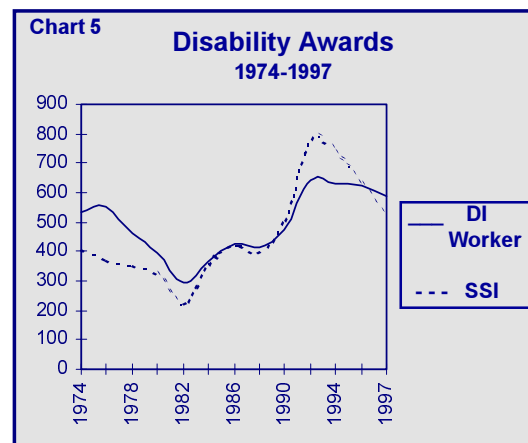
- **Over the years there have been wide fluctuations in the number of people applying for and being awarded disability benefits, as well as significant changes in the basis for awards and in other aspects of the disability programs. The causes of these variations are poorly understood.**

The Disability Insurance “incidence rate” (the proportion of the insured population who qualify for Disability Insurance benefits in a year) has varied over the last quarter century in something of a roller coaster fashion. The 1998 OASDI Trustees Report indicates that the rate increased to a high of 7 per 1000 in 1975, then declined to a historical low of 3 per 1000 in 1982, rose again to 5.6 percent per 1000 in 1992, and has now declined to about 4.6 per 1000. These swings have resulted in significant changes in the cost of the program, requiring the Congress to reallocate funds from the OASI Trust Fund to the DI Trust Fund so that the DI program could continue to pay benefits. This was done most recently in 1994.

In the 1970s, there was a dramatic upswing in the number of people applying for and being awarded Disability Insurance benefits, causing the benefit rolls to double over the course of the decade. This growth coincided with the implementation of SSI, which brought an influx of new claims, and with economic recessions in 1969-70 and in 1974-75. The number of new disabled-worker benefit awards declined to a low in 1982 (also a period of economic

recession) then rose and leveled off later in the 1980s. Between 1989 and 1992, both disability applications and awards again rose sharply. (See Chart 5.) The number of disabled workers on the DI program rolls grew from about 2.9 million at the end of calendar year 1989 to almost 3.5 million at the end of 1992, and DI benefit costs rose from \$23 billion to \$31 billion over that same period. Since 1992 the number of awards has been declining. However, the total number of beneficiaries has continued to grow (to 4.6 million in July 1998) because of a decline in the disability termination rate.

Since the inception of SSI in 1974, fluctuations in the number of people entering the SSI disability rolls have followed a pattern similar to that for disabled workers. However, beginning in 1988, the growth in the SSI rolls was even more rapid than growth in the disabled worker rolls, and in 1990 through 1996, the number of new SSI disability awards exceeded the number of Social Security disability awards.



The Disability Insurance “incidence rate”...has varied over the last quarter century in something of a roller coaster fashion....These swings have resulted in significant changes in the cost of the program....

DISABILITY PROGRAM GROWTH

The Social Security Disability Insurance program and the SSI disability program have grown substantially over the last 20 years, and continued growth is predicted.

DISABILITY INSURANCE

In 1975, the number of disabled workers receiving DI was about 2.5 million. The estimate for 1998 is 4.7 million—an increase of 88 percent.

By 2005, it is forecast that over 6.3 million disabled workers will receive benefits. The number will grow to 9.1 million disabled workers by 2020.

The cost of the DI program has grown from \$24.9 billion in 1975 to a projected \$49.3 billion in 1998. This number is expected to grow to \$67.1 billion in 2005, and \$104.9 billion in 2020. (In constant 1998 dollars.)

SUPPLEMENTAL SECURITY INCOME

In 1975, the number of individuals receiving SSI based on disability was about 2.0 million. The estimate for 1998 is 5.2 million, an increase of 160 percent.

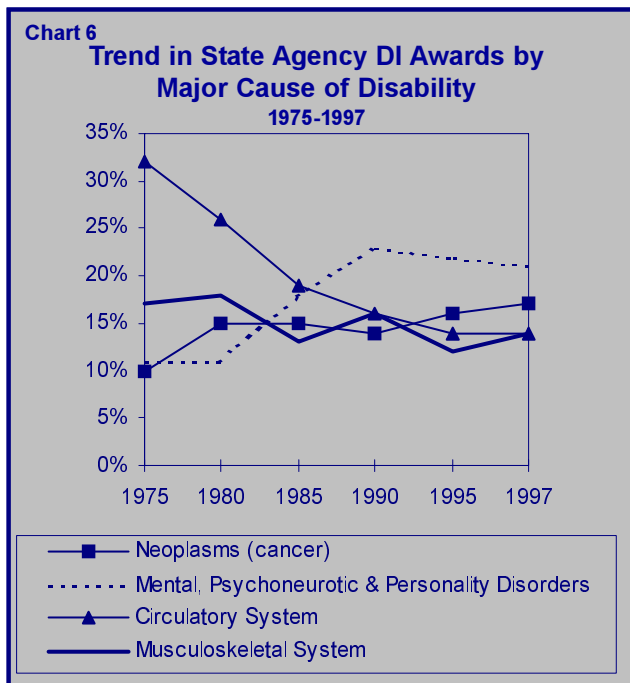
By 2005, the SSI rolls are predicted to increase to over 5.4 million. The number of beneficiaries is expected to grow to about 6 million by 2020.

The cost of Federal SSI disability payments has grown from about \$7.3 billion in 1975 to a projected \$23.8 billion in 1998. This number is expected to grow to \$25.7 billion in 2005, and \$29 billion in 2020. (In constant 1998 dollars.)

Source: Social Security Administration, 1998

The Social Security Disability Insurance program and the SSI disability program have grown substantially over the last 20 years, and continued growth is predicted.

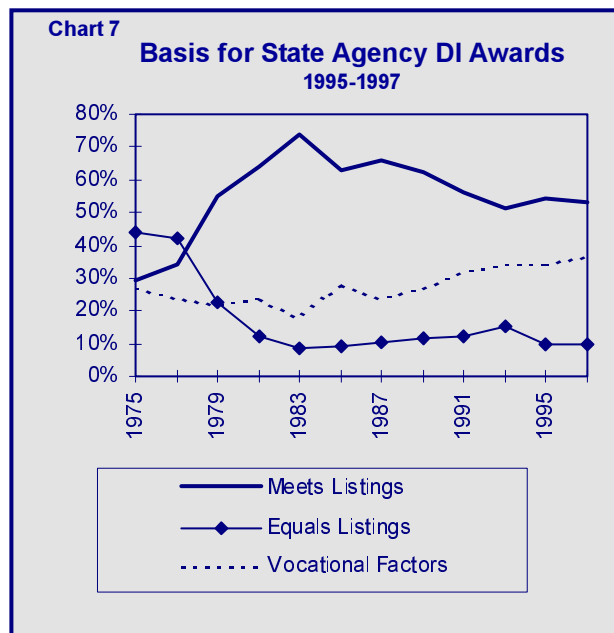
There has been long-standing concern about the wide fluctuations in disability program statistics. In 1992, concerned about the recent large increase in the cost of the DI program, Social Security's Board of Trustees asked SSA to conduct a study of the causes. In 1994, the Congress also passed legislation calling for a study. The Social Security Administration contracted for an outside analysis, and subsequently issued a report which cited economic slowdown as a factor accounting for 19 percent of the increase in DI applications. However, the SSA report noted that the relationship between economic factors and the increased number of awards was not nearly as strong as the relationship between these factors and the increase in the number of applications. The report cited the following as possible reasons for the increase in DI award rates that occurred in this period: regulatory changes, high appeal rates and high rates of awards at the hearing level, an increase in HIV/AIDS, efforts by States to shift beneficiaries from State to Federal programs, and workload pressures. There was also a decline in DI termination rates during this period. This decline was attributed to the younger average age of beneficiaries (leading to a lower rate of conversion to retirement benefits), and a decline in the number of continuing disability reviews conducted by the agency.



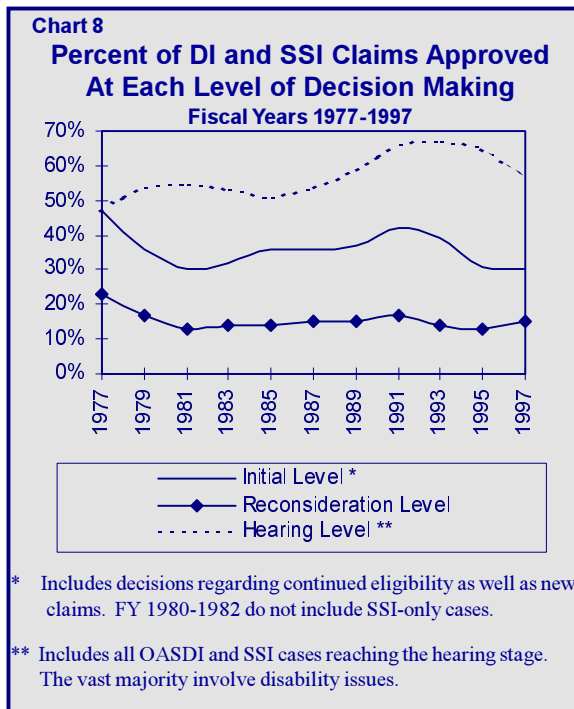
The statistics for the disability programs show that they have experienced substantial change in other ways as well.

From 1975 to 1997 the percent of disabled workers awarded DI benefits by State agencies on the basis of mental impairments grew from 11 percent to 21 percent, while the percent awarded benefits on the basis of diseases of the circulatory system fell from 32 percent to 14 percent. (See Chart 6.)

In 1983, 74 percent of all DI awards were on the basis that the disability claimant met SSA's medical listings, and only 18 percent were on the basis of vocational factors. By 1997, only 53 percent of awards were found to meet the medical listings, while awards based on vocational factors had grown to 37 percent. (See Chart 7.)



In 1980, State DDS initial allowance rates for DI and SSI disability claims stood at 33 percent. They grew to 43 percent in 1992 and fell to 30 percent in 1997. Allowance rates by Administrative Law Judges for DI and SSI disability claims have followed a similar pattern of growth and contraction. (See Chart 8.)



- **Little research has been done to help policy makers understand the reasons for these changes in the disability programs.**

In the 1960s and 1970s, the Social Security Administration conducted periodic comprehensive surveys to measure the prevalence of work disability in the general population and to assess the role of the disability program in meeting the needs of people with disabilities. No comparable data have been collected since 1978.

Subsequently, discrete, limited studies have been done at various times to ascertain reasons for the rise and fall in disability incidence rates and in applications and awards. As noted above, these studies, including one done under contract for SSA following the most recent surge in program growth, point to economic fluctuation as one factor explaining trends in disability applications and awards. However, there has been no systematic exploration of this and other causative factors. The resulting lack of data and analysis makes it impossible to project the future size, cost, and composition of the disability program with confidence.

Moreover, despite the many problems facing the disability programs, policy makers do not

have data regarding the size of the potentially eligible population—that is, the number of people with disabilities who might meet the current (or alternative) medical, functional, and vocational requirements for becoming eligible for benefits. In the absence of this information, little is known about the economic, personal, and job-related factors that distinguish those who apply for benefits from those who remain in the labor force. It is not possible to answer questions about how such factors as employer accommodations, access to health insurance, availability of assistive services, and public perception about the accessibility and adequacy of disability benefits affect an individual's decision to apply for benefits.

There has also been no systematic study of the reasons for such important changes in program decision making as those described above, relating to the reasons for impairment, medical versus vocational factors, and the level at which benefits are awarded.

The lack of information on these factors exacerbates the difficulty of estimating the costs of the disability programs and limits the ability of policy makers to assess the impact of policy options. It also makes it difficult to evaluate State agency allowance and denial rate variations to determine whether they reflect a weakness in administration or are justified by demographic and economic differences.

Although SSA has conducted several demonstration projects of various “return-to-work” strategies, there is still a gap in knowledge about the circumstances under which beneficiaries leave the rolls due to return to work without having medically recovered. For the most part, these experiments have not been conducted in a rigorous manner and have not been rigorously evaluated. Thus, they have yielded little useful information about beneficiaries' capacity to work and the efficacy of various types of intervention in facilitating successful work efforts. The lack of knowledge in this area has meant that policy makers have largely had to rely on anecdotal evidence to assess proposals to provide support to beneficiaries attempting to return to work.

B. RECOMMENDATIONS

- **The Disability Evaluation Study, now in its early phases, should be carefully designed and conducted. SSA should consider modifying the study to include longitudinal analysis.**

The Disability Evaluation Study (DES) represents an ambitious effort by SSA to obtain information needed for policy assessment, particularly data regarding the potential number of individuals who may be eligible for the disability programs. The study is based on a complex nationwide survey design which seeks to address four general questions: (1) What is the number of non-beneficiaries who, but for work or other reasons, are disabled for Social Security purposes? (2) What enables disabled people to remain in the workforce? (3) How can SSA cost-effectively monitor future changes in disability incidence? (4) How many persons, and what types of persons, would be affected by any change in the disability process? The DES involves a major investment of SSA research funds—\$40 million over a period of 7 years.

SSA needs to assure that such a massive undertaking is based on statistically sound design and valid survey methodology. The agency has a contract with the National Research Council of the National Academy of Sciences to advise on survey methodology. The committee reviewing the DES has expressed concern about conflicting goals for the study, problems in the survey design (especially inadequate sample size), the lack of adequate research capacity within SSA to enable the agency to undertake the additional research needed, and unrealistic time frames for completion of the study and its evaluation. Although SSA has addressed some of these concerns, the agency needs to continue to focus

on correcting remaining deficiencies before the DES has progressed beyond the point where changes can be made. The public, researchers, and policy makers will not be well served unless this very major effort produces data that are widely accepted as being reliable.

The Board is also aware that the history of the disability programs suggests that they are subject to trends and influences that need to be carefully assessed and monitored over time. Thus, we believe that the need for the type of information sought through the DES will be ongoing and that the value of the DES will be limited if the survey is not repeated on a sub-sample basis in future years. Longitudinal data on the size and characteristics of the disabled population would be extremely useful to both policy makers and administrators.

- **SSA should initiate other research efforts to help policy makers understand changes in program dynamics and how to respond to them, and the impact of possible future changes in disability policies and administration.**

The Board believes that SSA should closely monitor changes in the disability rolls and adapt its research program so as to be able to explain to policy makers why they are occurring and whether they provide the basis for new and alternative policies to address the needs of individuals with differing types of disabilities.

Research is needed on whether public perceptions of the ease or difficulty of obtaining benefits affect application rates. Other questions needing answers are the extent to which changing emphases in program

Longitudinal data on the size and characteristics of the disabled population would be extremely useful to both policy makers and administrators.

administration (e.g., changes in quality assurance reviews) influence application rates, award rates, and the basis for decisions.

Another important area for research is how future changes in policy, such as different eligibility criteria, temporary benefit periods, increased rehabilitation and employment opportunities, and health insurance coverage, would affect program participation. There is also a need for research on the impact on the employment of disabled individuals of changes in the nature of work (including skills and education requirements) as jobs in the services economy increase and jobs in manufacturing and production decrease. The disability population is heterogeneous. Research is needed on specific populations, including children, women, and minorities; differences between categories of impairments; and differences in age groups. Research is also needed on changes in types of impairments.

There will be mounting pressures on the disability programs as the baby boom generation enters its disability-prone years and as the scheduled increase in the normal age of eligibility for full Social Security benefits (from 65 to 67) begins to be phased in beginning

in 2000. The increase in the retirement age will mean that Social Security retirement benefits will replace a lower percentage of benefits for future retirees than is currently the case, thus increasing the relative value of acquiring disability entitlement.

Similarly, the Board expects that proposals to further increase the retirement age beyond age 67, to accelerate the phase-in of the already scheduled increase, or to increase the early retirement age beyond the current age 62 will continue to be part of the public debate about ways to restore solvency to the Social Security retirement program. Policy makers will need answers to a variety of questions over the next several years about the interface of disability and retirement.

The Board recommends, therefore, that SSA undertake research aimed at developing a better understanding of the relationship of the health status of workers to retirement decisions. This research should also explore the likely responses of employers to an aging work force, including to workers who experience a decline in health. Advance understanding of the motivations of both workers and employers will be critical to the timely development of policy options that are responsible and cost-effective.

Policy makers will need answers to a variety of questions over the next several years about the interface of disability and retirement.

VIII. CONCLUSION

Although all of the recommendations in this report are important, they are not of equal weight. In our view, the agency should give priority to the following recommendations. They are all elements of SSA's Disability Redesign plan:

- **development and implementation of an on-going joint training program for all adjudicators;**
- **development of a single presentation of disability policy that is binding on all decision makers, including the updating of medical listings and vocational standards;**
- **development and implementation of a quality assurance system that will unify the application of policy throughout the disability determination system;**
- **improvement in the quality of medical evidence that is used in determining disability claims; and**
- **development and implementation of a computer system that will provide adequate support to all elements of the disability claims process.**

We believe these recommendations are essential to fair and consistent decision making and will be widely supported.

Little can be achieved, however, unless the agency strengthens and rebuilds its disability staff. SSA's current resources are too few. There are not enough trained and experienced staff to assess the changing needs of the disability programs and to oversee change. The agency needs to make the Office of Disability an attractive place to work. For too many years this office has been regarded as a place where careers cannot flourish and work goes unappreciated. This situation must be turned around as rapidly as possible. The agency badly needs to recruit and maintain a disability staff with the highest possible level of expertise. It should look both within and outside the agency for this new staff.

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The agency also needs to consult with all the parties that are involved in the Disability Redesign project as it brings this project to closure. They should be given access to the Redesign test data so that they can make their own assessments of the test results. Bringing the Redesign project to a conclusion openly and forthrightly is an important first step in generating the support of all the participants in the process so that together they can move forward with the changes that need to be made.

As we have made clear in this report, the problems of the disability programs have existed over a long period of time and will be resolved only by steady progress over a number of years. Former Commissioner of Social Security Shirley Chater undertook an initiative to improve the disability determination process, but left office before the project was completed. There is a critical need now to move forward as quickly as possible with the process of change. It will be important for the present Commissioner to set in motion the changes that he determines need to be made so that there will be a solid base for making future improvements. Because it will take time to get new staff in place and to do the complex work that is needed, the job cannot be completed within his remaining term of a little more than two years. But staff can be put in place, and substantial progress can be made in updating listings, issuing a single presentation of policy, implementing new programs for training and quality assurance, improving the quality of medical evidence, and implementing a new computer system to support all parts of the disability claims process. If all these changes are well under way, it should be possible for the programs to be transformed during the next statutory term of the Commissioner which begins in 2001.

If pursued with energy and commitment, we believe our recommendations will be beneficial. But the Social Security Administration cannot be timid or passive in the face of the challenges it confronts. It must make bold decisions and carry them out with resolve and dispatch. Creative leadership will need to be sustained over a considerable period to meet the formidable challenges presented by the disability programs.

...the problems of the disability programs have existed over a long period of time and will be resolved only by steady progress over a number of years.... There is a critical need now to move forward as quickly as possible with the process of change.

APPENDIX

A. THE CURRENT DISABILITY DETERMINATION PROCESS AND HOW IT WOULD BE CHANGED UNDER DISABILITY REDESIGN

BACKGROUND

In 1994, the Social Security Administration made public a proposal to redesign its process for making Social Security disability determinations. Citing that “a claimant for disability benefits from the Social Security Administration faces a lengthy, bewildering process” and that the agency had “reached a critical juncture; disability claims receipts at the initial claims and appeals levels have reached all time highs,” SSA proposed to reengineer the entire process—to look at every aspect except: the statutory definition of disability; individual benefit amounts; the use of an Administrative Law Judge as the presiding officer for administrative hearings; and vocational rehabilitation for beneficiaries.

The Disability Process Reengineering Team, the group assigned the redesign effort, focused its work entirely on the disability process, and did not address the organizational issues that might arise. (For example, the redesign proposal includes new functional positions but does not indicate which component or components would carry out these responsibilities.) The team solicited ideas from a broad cross section of those who work with the process, including members of the public.

The objectives of the redesign proposal were to “make the redesigned process ‘user friendly’ for claimants and those who assist them, to make the right decision the first time,

to make the decision and pay claims quickly, to make the process efficient, and to make the work satisfying for employees.” In addition, SSA outlined the expectation goals for the proposal as: the recommendations for change, taken as a whole, should not cause changes in benefit outlays unless as a necessary result of improvements in service (such as more timely processing and payment of claims); and process changes should improve service and/or productivity, on a combined basis, by at least 25 percent by the end of fiscal year 1997 over levels projected in the fiscal year 1994 budget without a decrease in decisional accuracy. By fiscal year 2000, additional actions, including any necessary statutory and regulatory changes, should provide a further 25 percent improvement.

Since 1994, SSA has been testing many of the initiatives outlined in the proposal, and has said that decisions will be made in the near future on whether to implement some of them on a permanent basis.

THE CURRENT PROCESS

Initial Application

A claimant files an application for Social Security Disability Insurance (DI) and Supplemental Security Income (SSI) disability benefits in one of SSA’s 1,300 field offices. After the claimant completes the application, SSA staff

screen it for nondisability requirements. For DI cases, these requirements include such factors as whether the claimant is insured, and, if appropriate, the claimant's relationship to the wage earner. In SSI cases, individuals must provide proof of citizenship status, and document their income and resource status.

The SSA office sends the application to its State Disability Determination Services (DDS), which makes disability determinations using SSA's regulations, performance standards, administrative requirements and procedures. There, a team consisting of a disability evaluation specialist and a physician (or psychologist) considers the facts in the case and determines whether the claimant is disabled under the Social Security law.

A claimant is responsible for providing medical evidence showing that he or she has an impairment(s) and how severe the impairments(s) is. If necessary, DDS officials will help claimants get medical reports from the claimant's physicians and hospitals, clinics, or institutions where the person has been treated. The government pays a reasonable charge (set by each State) for any medical reports that it needs and requests.

If additional medical information is needed before the DDS team can decide a case, the claimant may be asked to take a special examination called a "consultative examination." SSA pays for the examination or any other additional medical tests needed, and for certain related travel expenses.

Once a decision is rendered, the claimant receives a written notice from SSA. If the claim is approved, the notice shows the amount of the benefit and when payments start. If it is not approved, the notice explains why.

Appeals

Individuals who receive an unfavorable initial disability decision have the right to an appeal. There are four levels of appeal: (1)

reconsideration; (2) hearing by an Administrative Law Judge (ALJ); (3) review by the Appeals Council; and (4) Federal court review. At each level of appeal, claimants or their appointed representative must file the appeal request in writing within 60 days from the date the notice of unfavorable decision is received.

Reconsideration

The reconsideration process is similar to the initial determination process except that a different team at the DDS reviews the case. The team examines all of the evidence that was submitted when the original decision was made plus any new evidence.

Administrative Law Judge Hearing

If the reconsideration team concurs with the initial denial of benefits, the individual may request a formal hearing before an ALJ in the Office of Hearings and Appeals. There are 143 hearing offices located throughout the nation. Hearings are usually held within 75 miles of the claimant's home.

The claimant may request either an oral hearing or have the ALJ issue a decision based on evidence already in the record. The ALJ may request medical and vocational experts to testify at the hearing, and may require the individual to undergo a consultative medical examination. The claimant may submit additional evidence, produce witnesses, and be represented by legal counsel or lay persons.

Appeals Council Review

The final administrative appeals step is a request by the claimant for the Appeals Council to review the ALJ decision. The Appeals Council may also, on its own motion, review a decision within 60 days of the ALJ's decision.

The Appeals Council considers the evidence of record, any additional evidence submitted by the claimant, and the ALJ's findings and conclusions. The Council may grant, deny, or

dismiss a request for review. If it agrees to review the case, the Council may uphold, modify, or reverse the ALJ's action or remand the case to an ALJ for further consideration.

Federal District Court

If the Appeals Council affirms the denial of benefits or refuses to review the case, further appeal may be made through the Federal District Courts. In 1997, 12,523 cases, or 18 percent of Appeals Council denials, were appealed to the courts.

THE REDESIGNED PROCESS

Initial Application

Under the proposed redesigned process, a claimant would still file a claim for disability benefits through the local Social Security office. However, unlike the current process, the claimant would have a single point of contact—a Disability Claim Manager (DCM)—during the initial application process. The DCM would handle all medical and nonmedical aspects of the claim, including the determination of nonmedical and medical eligibility. The DCM would be responsible for the claim throughout the initial decision making process, and would help the claimant get additional medical evidence or other required documents if necessary.

If the DCM decides that the case evidence does not support an allowance, a predecision notice would be issued advising the claimant of what evidence has been considered, and offering the claimant the opportunity to submit further evidence. The predecision notice would also offer the claimant a personal interview to discuss the case. After reviewing any additional evidence that the claimant submits, the DCM would issue a decision.

Appeals

Adjudication Officer

The reconsideration process would be eliminated under the redesigned process. If the claimant disagrees with the initial determination made by the DCM, he or she could request a hearing before an ALJ. Prior to the hearing, however, the case would be given to an adjudication officer (AO), who would be the focal point for all prehearing activities—identifying the issues in dispute, explaining the hearing process to the claimant, obtaining additional evidence if needed, and scheduling the hearing.

The AO would have full authority to issue a revised favorable decision if the evidence warrants, without an ALJ hearing. However, if a favorable decision cannot be issued, the AO would refer the prepared record, after completing all evidentiary development, to an ALJ.

Administrative Law Judge Hearing

A hearing before an ALJ would remain an informal adjudicatory proceeding as it is under the current process. However, under the new process, if a claimant is dissatisfied with the ALJ's decision, the claimant's next level of appeal would be to Federal District Court. A claimant's request for Appeals Council review would no longer be a prerequisite to seeking judicial review.

Appeals Council Review

As under the current process, the Appeals Council would continue to have a role in ensuring that claims subject to judicial review have properly prepared records and that the Federal courts only consider claims where appellate review is warranted. Accordingly,

the Appeals Council, working with SSA counsel, would evaluate all claims in which a civil action

has been filed and decide, within a fixed time limit, whether it wished to defend the ALJ's decision as the final decision of the Secretary.

Additionally, the Appeals Council would have a role in a comprehensive quality assurance system. The Appeals Council would conduct own motion reviews of ALJ decisions (both allowances and denials) and dismissals prior to effectuation. If it decides to review a claim on its own motion, the Appeals Council could affirm, reverse, or remand the ALJ's decision, or vacate the dismissal.

OTHER MAJOR CHANGES

Process Unification

Disability adjudicators currently use different policy source documents when making disability determinations—ALJs and members of the Appeals Council rely on regulations, Social Security Rulings, and Acquiescence Rulings, while the DDSs use administrative publications such as the Program Operations Manual System. SSA would develop a single presentation of the disability determination policies with the objective of giving DDS adjudicators and ALJs a single source of policy, the “One Book.”

In addition, the Process Unification initiative calls for joint training of DDS adjudicators and ALJs, and enhanced decision rationales and documentation at the DDS level.

New Disability Decision Methodology

SSA currently uses a sequential evaluation to determine disability. At one step in the process, adjudicators must determine whether the claimant “meets” or “equals” a highly detailed set of medical listings that the agency publishes in regulations. These listings contain over 100 examples of medical conditions that would ordinarily prevent an individual from engaging in any substantial gainful activity.

Under the redesigned disability process, SSA would develop a new decision methodology that would largely replace the medical listings with new, standardized measures of an individual's ability to function that are expected to be simpler.

Quality Assurance System

Currently, decisions made by the DDSs and the ALJs are evaluated by different SSA reviewers, whose training and experience may differ widely. The redesigned process would feature a uniform quality assurance system that would be applied to both DDS and ALJ decisions. The new approach would feature an in-line review system, thus allowing cases to be reviewed before they are effectuated. In addition, the new approach would include comprehensive review of the whole adjudicatory process to provide feedback on the application of agency policies at all levels of the decision making process.

B. DISABILITY BENEFITS: THE INTERNATIONAL EXPERIENCE

Overview

All modern industrialized countries attempt to protect workers against economic hardships caused by job loss due to disability. The level of protection, the administrative mechanisms used to provide it, and the role played by the government in establishing disability policy in each country vary substantially. However, as reflected in the table below with respect to five illustrative Organization for Economic Cooperation and Development (OECD) member nations, most industrialized countries have experienced increases in the numbers of workers applying for and becoming entitled to public disability benefits over the past 25 years.

Disability Recipients Per Thousand Active Labor Force Participants Aged 15-64 in Five OECD Countries, 1970-1995*				
	1970	1980	1990	1995
The Netherlands	55	138	152	142
United States	27	41	43	64
United Kingdom	29	31	68	na
Germany	51	49	55	47
Sweden	49	68	78	106

*Includes both long-term and short-term disability transfers. The U.S. has no public short-term transfers.

There are many theories about the causes of this phenomenon and no agreement about precise correlation with economic trends. Nevertheless, there is some consensus around the theory that attempts by industrialized countries to integrate large numbers of women and baby boomers

into their economies, without having unacceptably high unemployment levels, resulted in pressures to provide greater protection under disability programs for older and less healthy workers who were displaced.

The Netherlands, in fact, actively used disability benefits to reduce unemployment, even for those under age 45. Germany, Sweden, and the United Kingdom relaxed eligibility standards for disability in the late 1970s and early 1980s, but only for older workers.

In the United States, the disability rolls grew rapidly in the 1970s. In 1980, Congress initiated measures to tighten program administration. The proportion of working age people on the disability rolls then remained stable in the U.S. and did not change dramatically until the late 1980s, when a combination of factors appear to have led to substantial program expansion.

The reasons for program growth in the United States that are most commonly cited are: economic slowdown; aging of the population; legislative, regulatory and court actions that made it easier to get on the rolls and harder to be taken off; efforts by States to move assistance recipients into Federal programs; SSA outreach efforts; a somewhat more favorable "adjudicative climate;" and shifts in public attitudes toward receipt of benefits.

Role of Disability Policy

There is no evidence that either the underlying health status of a population or the physical and mental demands of employment varies much across industrialized countries. Thus the differences in disability experience noted appear to stem from each country's disability policies and the relative generosity of disability benefits as compared to potential earnings from work and to other forms of income support.

There are notable differences in the disability policies of the countries looked at by the OECD.

Most European countries, including the four looked at by the OECD, provide some type of “sickness benefit” to replace lost wages during short-term illnesses and during the first few weeks or months of longer-term illnesses. In the United States such short-term benefits are generally provided, if at all, by employers or through private insurance policies held by workers. In addition, there are some State-sponsored programs.

The percentage of earnings replaced by disability benefits varies from very high (as much as 80 to 90 percent) in countries like the Netherlands and Sweden, to relatively low (about 40 percent) in countries like the United Kingdom and the United States. Some countries provide benefits to people with only partial disabilities—the Netherlands, Sweden, and Germany--while others provide benefits only to those who are fully disabled—the United States and the United Kingdom.

In addition, the degree of autonomy of the administrative “gatekeepers” who determine who receives disability benefits varies among countries. Likewise there are differences in the resources devoted to and the amount of emphasis put on rehabilitation in each country, and in the timing of rehabilitation efforts.

Disability Reform Efforts

The country that has taken the most dramatic steps to reform its disability program is the Netherlands. In 1994, for every 5 workers who were employed in Holland, there was one individual on the disability rolls, a situation that contributed greatly to an upward spiral in Social Security spending (from 11.9 percent of GDP in 1970 to 18 percent in 1994). This situation was unacceptable to Dutch legislators, who enacted a number of provisions designed to restrict eligibility to benefits and to limit the duration and level of compensation. Specifically, the new law includes provisions which:

- award benefits only on a temporary basis (up to 5 years) with continuing entitlement during that period dependent on periodic examinations (a new application for

benefits may be filed after 5 years by those who remain disabled);

- lower the replacement rate to 70 percent from the previous 80 percent;
- link the amount and duration of benefits for persons under age 50 to the claimant’s age and previous work experience; and
- require all persons under age 50 who were receiving benefits prior to August 1, 1993 to be reassessed under the new criteria.

Subsequently, major changes were made in the administrative structure of the Dutch disability program to eliminate what was seen as lax practice on the part of the previous administrators.

Taken together, the Dutch reforms appear to have had some success. In 1994, the year following enactment, benefit terminations due to recovery increased by about 40 percent and annual awards decreased by about 15 percent. However, the proportion of the working age population that remained on the rolls was still quite high (about 13 percent).

Both Germany and Sweden introduced changes in the 1990s that were designed to limit growth in their disability rolls, but which were more subtle than the Dutch reforms. In these countries, much greater emphasis was placed on work continuation and retraining of workers, with “rehabilitation before pensions” being an oft-quoted goal in both countries. Similarly, the United Kingdom has expanded its already substantial rehabilitation programs and has also initiated some eligibility tightening measures over the last few years.

After several years of modest growth following the legislation of 1984, the United States again experienced rapid growth in the disability rolls in the early 1990s. In response, steps have since been taken to increase the number of continuing eligibility reviews, which had declined significantly. Also, in line with the country’s heightened awareness of the rights of the disabled as reflected in the Americans with Disabilities Act, there is increased interest in developing early intervention and return-to-work strategies.

C. COMPONENTS WITHIN THE SOCIAL SECURITY ADMINISTRATION WITH RESPONSIBILITIES IN THE DISABILITY PROCESS

Nearly every staff component of the Social Security Administration has a role in administering the Social Security disability program. SSA employees are involved in many facets of the process, from writing informational pamphlets to holding administrative hearings. Outlined below is a list of SSA staff components and their responsibilities in the disability process. The numbers of staff shown are totals; not all work on disability issues.

Office of Operations (49,370 employees)

- With input from other SSA components, the Office of Operations oversees the operation of SSA's field and regional offices
- SSA's front-line to the public: field office staffs take disability claims, provide information to claimants and potential claimants, and meet with the public to provide information about the disability programs
- Regional office staffs answer field office and Disability Determination Services (DDS) questions concerning disability policy
- Regional offices have oversight responsibilities of the DDSs in their regions. They are the front-line liaisons between SSA and the DDSs. Some of their duties include: addressing DDS workload issues (working with DDSs to prioritize their workloads); addressing DDS technology support issues; monitoring DDS activity.

Office of Disability (294 employees)

- Serves as primary liaison between SSA and the DDSs on all budgetary, policy and systems issues
- Writes and interprets disability policy for the agency, based on court decisions, Congressional mandates and agency initiatives
- Works with the Office of Legislation and Congressional Affairs and provides policy expertise in writing legislative proposals
- Answers questions from regional offices and field offices about disability policy
- Submits budget proposals to SSA's Office of Budget for disability programs, initiatives and mandates. Also submits budgets for DDS operations, based on input from the DDSs
- Handles DDS policy and budget issues. Conducts fiscal reviews of the DDSs
- Works with the DDSs and the Office of Systems on technology issues, such as standardizing technology used by the DDSs
- Has responsibility for training adjudicators on disability issues

Office of Hearings and Appeals (8,128 employees)

- Manages the hearing offices and the Appeals Council, where Administrative Law Judges and Administrative Appeals Judges render disability decisions
- With the Office of Disability and often the Litigation Staff, writes and interprets disability policy for the agency (particularly for the hearing offices and the Appeals Council)
- Keeps statistics on hearing office decisions, most of which relate to disability claims
- Maintains the hearings and appeals procedural manual
- Works with the Office of General Counsel on responding to court cases, and preparing SSA's defense of court cases

Litigation Staff (30 employees)

- This component, which is within the Office of Disability and Income Security Programs, works with the Office of General Counsel on responding to court cases, and preparing SSA's defense of court cases
- With the Office of Disability and the Office of Hearings and Appeals, assists in developing policies and procedures to comply with court decisions

Office of Policy (including the Office of Research, Evaluation, and Statistics) (149 employees)

- Studies "big picture" disability issues (e.g., the effects of raising the retirement age on the Disability Insurance program) and works with other SSA components, Congress, advocates, and other government agencies to develop policy alternatives
- Collects data related to Social Security disability programs, such as the number of people receiving benefits, and their demographic breakouts. Evaluates data for planning and other informational purposes
- Plans, coordinates, conducts, and contracts out studies of the disability program for planning and evaluation purposes
- Responsible for the Disability Evaluation Study

Office of the Commissioner (65 employees)

- The Disability Process Redesign Team is responsible for Disability Redesign. This entails establishing the work plan and strategies for the various initiatives and working with all affected SSA components (Office of Operations, Office of Disability, DDSs, etc.) to carry them out
- The Office of Strategic Management coordinates with all SSA components to write and manage SSA's Strategic Plan, including all disability initiatives

Office of General Counsel (505 employees)

- Defends SSA in disability cases before the courts
- Works with other SSA components to write and interpret disability policy for the agency, based on court decisions, Congressional mandates, agency initiatives

Office of Legislation and Congressional Affairs (63 employees)

- With input from other SSA components, develops legislative proposals regarding the disability programs
- Analyzes Congressional and other proposals for changes in the disability programs
- Responds to Congressional inquiries concerning disability issues
- Meets with Congressional staffs to inform them of SSA's proposals and respond to questions raised about the disability programs
- Answers questions from other SSA components regarding disability legislation
- Responds to other government organizations (e.g., the White House) about disability issues

Office of Communications (186 employees)

- Produces pamphlets, booklets, fact sheets, videos, information kits about disability benefits
- Responds to public inquiries about disability benefits and claims
- Primary liaison with disability advocates

- Acts as a liaison to other government and non-governmental agencies regarding SSA activities
- Works with the Press to address disability issues
- Writes speeches for SSA staff to use when addressing the public

Office of the Chief Actuary (46 employees)

- Prepares long- and short-range estimates regarding prevalence of disability, numbers of disability applicants, beneficiaries, etc.
- Prepares long- and short-range estimates of the disability trust fund
- Prepares cost estimates for legislative proposals
- Provides program and other statistics to other SSA components for use in conducting studies, audits, writing policy

Office of Finance, Assessment, and Management (2,500 employees)

- The Office of Budget prepares budgets and FTE allocations for the Offices of Operations, Disability, and Hearings and Appeals, as well as the DDSs
- The Office of Quality Assurance and Performance Assessment, through Disability Quality Branches, performs quality assurance reviews, including pre-effectuation reviews, for the DDSs, and a post-effectuation review of Administrative Law Judge decisions
- The Office of Quality Assurance and Performance Assessment also performs other, more global reviews of SSA programs, such as looking at discrepancies of disability allowance and disallowance rates throughout the claims process and among different regions; analyzes the effects of Disability Redesign initiatives.
- With input from other SSA components, prepares and manages contracts and grants for research projects, etc. that relate to disability
- Manages office space (Baltimore and Washington, D.C.) where people performing disability-related work are housed. Also works with regional office and field office staff in securing and managing office space

Office of Inspector General (394 employees)

- Conducts audits of disability programs to ensure program integrity and program directives are met
- Conducts fraud investigations of disability-related cases and issues

Office of Systems (2,838 employees)

- Coordinates planning and implementation of SSA's computer infrastructure. Most claims—disability claims included—are taken on the computer
- Responsible for development of the Redesigned Disability System which will provide a single system for field offices, DDSs, and the Office of Hearings and Appeals, with a goal of eliminating paper processing
- Transmits communications (e.g., emergency instructions, Commissioner's broadcasts, and administrative messages) to all SSA and DDS offices

Office of Human Resources (509 employees)

- Responsible for personnel services for the components that handle disability issues
- Plans and conducts training on non-disability issues

THE SOCIAL SECURITY ADVISORY BOARD

Establishment of the Board

In 1994, when the Congress passed legislation establishing the Social Security Administration as an independent agency, it also created a 7-member bipartisan Advisory Board to advise the President, the Congress, and the Commissioner of Social Security on matters relating to the Social Security and Supplemental Security Income (SSI) programs. The conference report on this legislation passed both Houses of Congress without opposition. President Clinton signed the Social Security Independence and Program Improvements Act of 1994 into law on August 15, 1994 (P.L. 103-296).

Advisory Board members are appointed to 6-year terms, made up as follows: 3 appointed by the President (no more than 2 from the same political party); and 2 each (no more than one from the same political party) by the Speaker of the House (in consultation with the Chairman and Ranking Minority Member of the Committee on Ways and Means) and by the President pro tempore of the Senate (in consultation with the Chairman and Ranking Minority member of the Committee on Finance). Presidential appointees are subject to Senate confirmation.

Board members serve staggered terms. The statute provides that the initial members of the Board serve terms that expire over the course of the first 6-year period. The first 2 members' terms expired September 30, 1996 and September 30, 1997, respectively. The Board currently has 2 vacancies.

The Chairman of the Board is appointed by the President for a 4-year term, coincident with the term of the President, or until the designation of a successor.

Members of the Board

Stanford G. Ross, Chair

Stanford Ross is a partner in the law firm of Arnold & Porter, Washington, D.C. He has dealt extensively with public policy issues while serving in the Treasury Department, on the White House domestic policy staff, as Commissioner of Social Security, and as Public Trustee of the Social Security and Medicare Trust Funds. He is a Founding Member and a former Director and President of the National Academy of Social Insurance. He has provided technical assistance on Social Security and tax issues under the auspices of the International Monetary Fund, World Bank, and U.S. Treasury Department to various foreign countries. He has taught at the law schools of Georgetown University, Harvard University, New York University, and the University of Virginia, and has been a Visiting Fellow at the Hoover Institution, Stanford University. He is the author of many papers on Federal taxation and income security subjects.

Jo Anne Barnhart

Ms. Barnhart is a political and public policy consultant to State and local governments on welfare and social services program design, policy, implementation, evaluation, and legislation. From 1990 to 1993 she served as Assistant Secretary for Children and Families, Department of Health and Human Services, overseeing more than 65 programs, including Aid to Families with

Dependent Children, the Job Opportunities and Basic Skills Training program, Child Support Enforcement, and various child care programs. Previously, she was Minority Staff Director for the U.S. Senate Committee on Governmental Affairs, and legislative assistant for domestic policy issues for Senator William V. Roth. Most recently, Ms. Barnhart served as Political Director for the National Republican Senatorial Committee.

Lori L. Hansen

Ms. Hansen is a Policy Analyst at the National Academy of Social Insurance. She was a Technical Assistant to former Social Security Commissioner Robert Ball in his capacity as a member of the National Commission on Social Security Reform. She was also a Special Assistant to the President and Director of Government Affairs at the Legal Services Corporation. In addition, Ms. Hansen was a senior professional staff member on the U.S. Senate Committee on Labor and Human Resources, Subcommittee on Employment, Poverty, and Migratory Labor, and was legislative assistant to Senator Gaylord Nelson, then Chairman of the Subcommittee on Social Security of the Senate Committee on Finance. She also served on the professional staff of the Senate Select Committee on Nutrition and Human Needs.

Martha Keys

Martha Keys served as a U.S. Representative in the 94th and 95th Congresses. She was a member of the House Ways and Means Committee and its Subcommittees on Health and Public Assistance and Unemployment Compensation. Ms. Keys also served on the Select Committee on Welfare Reform. She served in the executive branch as Special Advisor to the Secretary of Health, Education, and Welfare and as Assistant Secretary of Education. She was a member of the 1983 National Commission (Greenspan) on Social Security Reform. Martha Keys is currently consulting on public policy issues. She has held executive positions in the non-profit sector, lectured widely on public policy in universities, and served on the National Council on Aging and other Boards. Ms. Keys is the author of *Planning for Retirement: Everywoman's Legal Guide*.

Sylvester J. Schieber

Mr. Schieber is Director of the Research and Information Center at Watson Wyatt Worldwide, where he specializes in analysis of public and private retirement policy issues and the development of special surveys and data files. From 1981 to 1983 Mr. Schieber was the Director of Research at the Employee Benefit Research Institute. Earlier, he worked for the Social Security Administration as an economic analyst and as Deputy Director at the Office of Policy Analysis. Mr. Schieber is the author of numerous journal articles, policy analysis papers, and three books including: *Retirement Income Opportunities in An Aging America: Coverage and Benefit Entitlement*, and *Social Security: Perspectives on Preserving the System*. He served on the 1994-1996 Advisory Council on Social Security. He received his Ph.D. from the University of Notre Dame.

Members of the Staff

Margaret S. Malone, Staff Director

*Peggy S. Fisher
Joyce Manchester
Beverly Rollins
Wayne Sulfridge
Jean Von Ancken*

SELECTED READINGS ON THE DISABILITY PROGRAMS

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CHARACTERISTICS OF DISABILITY BENEFICIARIES

SOCIAL SECURITY DISABILITY INSURANCE (DI)

Age:

Disability Insurance benefits are being awarded to workers at a younger age. In 1996, the average age for a worker awarded DI benefits was about 49, compared to about 52 in 1976, and about 53 in 1965. In 1996, 23 percent of the males and 20 percent of the females awarded DI benefits were under age 40. In 1976, 16 percent of males and 14 percent of females were under age 40. In 1965, 10 percent of males and 8 percent of females were under that age.

Impairment:

Over the years, the basis for award of DI benefits has changed. In 1996, more than one-fifth (22 percent) of the individuals awarded DI worker benefits received them based on a mental impairment, up from 10 percent in 1976. Seventeen percent of the benefits awarded in 1996 were based on a diagnosis of cancer, and 14 percent were based on circulatory problems (a decline from 27 percent in 1976).

Gender:

The proportion of DI awards going to women has increased. In 1996, nearly 43 percent of the individuals awarded disabled workers benefits were women, up from 31 percent in 1976.

SUPPLEMENTAL SECURITY INCOME (SSI)

Age:

Adult SSI disability beneficiaries tend to be younger than DI beneficiaries. In 1996, 16 percent of all SSI disabled adults awarded benefits were ages 18-29; and 38 percent were age 39 and under. That same year, 43 percent of the children awarded SSI disability benefits were under age 5; 69 percent were age 9 and under. Also in 1996, 21 percent of persons awarded SSI based on blindness or disability were children.

Impairment:

The largest percentage of adults and children who are awarded SSI disability benefits receive them based on a mental impairment. Thirty percent of all disabled adults and 63 percent of all disabled children who were awarded benefits in 1996 received them based on that diagnosis.

Gender:

The number of adult males who are awarded SSI disability benefits is approximately equal to the number of adult females. However male children are almost twice as likely to be approved for benefits as female children. In 1996, nearly 51 percent of the adults awarded SSI based on disability were women, and 49 percent were men. That same year, 62 percent of the children awarded SSI because of disability were males; 38 percent were females.

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Chart 1

THE SOCIAL SECURITY DI AND SSI DISABILITY CLAIMS PROCESS:
STEPS AND AVERAGE PROCESSING TIMES, 1997

