



**Social Security Disability Applicants' Access to
Professional Representation Act of 2010**
H.R. 4532
Issue Summary

Summary – The bill (introduced by Ways and Means Social Security Subcommittee Chairman John Tanner and Ranking Member Sam Johnson, along with Income Security and Family Support Subcommittee Chairman Jim McDermott and Ranking Member John Linder) would make permanent expiring provisions allowing for 1) attorney fee withholding under the Supplemental Security Income (SSI) program, 2) qualified non-attorney fee withholding under the Social Security¹ and SSI program, and 3) standards qualifying non-attorneys for fee withholding. Without action, these provisions will expire on March 1, 2010.

Background

- People applying for Social Security or SSI disability benefits may be represented by an attorney or other non-attorney representative. Representatives assist claimants by helping complete application forms, obtaining medical evidence, preparing the claimant and other witnesses for a hearing, and accompanying the claimant to a hearing. Claimants appoint their representative and notify the Social Security Administration (SSA).
- If a claimant's application for benefits is successful, the representative may receive a portion of the claimant's past due benefits as a fee, provided they are authorized by the SSA to receive the fee. This authorization is received through the submission of a fee agreement (where a representative receives 25 percent of the claimant's past-due benefits, up to a current cap of \$6,000) or a fee petition (where the SSA determines the fee based on expenses submitted).
- Since 1967, the SSA has withheld fees from claimant's past-due Social Security benefits and paid the attorneys directly. The Social Security Protection Act of 2004 expanded fee withholding to SSI benefits and also allowed qualified non-attorneys to participate in fee withholding to Social Security and SSI benefits for the first time through a temporary 5-year demonstration program that expires March 1 of this year.
- The SSA and the Government Accountability Office have both issued reports assessing the non-attorney representative program. Overall, these findings indicate that the program is achieving its intended results; well-qualified non-attorneys are participating in fee withholding and SSI applicants have greater access to representation.

¹ The vast majority of these are disability benefit claims, however representatives may be paid for services related to retirement and survivor claims as well.

- Associations representing attorneys and non-attorneys, along with disability advocates, support making these provisions permanent.
- Due to the fact that attorneys and non-attorneys who participate in fee withholding are charged a fee by the SSA, preliminary estimates indicate the bill saves approximately \$55 million over 10 years.