

NATIONAL ORGANIZATION OF
SOCIAL SECURITY CLAIMANTS' REPRESENTATIVES
(NOSSCR)
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The Honorable John Tanner, Chairman
Subcommittee on Social Security
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

The Honorable Sam Johnson, Ranking Member
Subcommittee on Social Security
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

The Honorable Jim McDermott, Chairman
Subcommittee on Income Security and
Family Support
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

The Honorable John Linder, Ranking Member
Subcommittee on Income Security and
Family Support
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Tanner, Chairman McDermott, Ranking Member Johnson, and Ranking Member Linder:

We are writing in strong support of H.R. 4532, the "Social Security Disability Applicants' Access to Professional Representation Act of 2010."

Applying for Social Security disability and Supplemental Security Income disability benefits can be a confusing, complicated, and difficult process. While claimants have the right to be represented, it is a hollow right if there is no realistic way to obtain representation.

The Social Security Protection Act of 2004, (SSPA), Pub. L. No. 108-203, included two provisions intended to help claimants obtain representation: (1) the withholding and direct payment of fees in Supplemental Security Income (SSI) cases; and (2) establishing a demonstration project to allow eligible non-attorney representatives the option of withholding and direct payment of fees in both Title II and SSI cases. Under the SSPA, both of these provisions are scheduled to “sunset” after a five-year period, which would be March 1, 2010. Because both projects have been successful, we are writing to support their permanent continuation. H.R. 4532 accomplishes this goal.

Established in 1979, the National Organization of Social Security Claimants’ Representatives (NOSSCR) is an association of nearly 4,000 attorneys and paralegals who represent Social Security and SSI claimants seeking to obtain disability and income security benefits. NOSSCR members are committed to providing high quality representation for claimants, to maintaining a system of full and fair adjudication for every claimant, and to advocating for beneficial change in the disability determination and adjudication process.

Withholding and Direct Payment of Fees in SSI Cases

Section 302 of the SSPA amended section 1631(d)(2) of the Social Security Act to extend the Title II attorney fee withholding and direct payment procedures to claims under Title XVI of the Act. This provision became effective for SSI fees paid on or after February 28, 2005.

Extending the existing fee withholding and direct payment provisions for Title II cases to Title XVI cases has made a measurable difference in the ability of SSI claimants to obtain representation. SSA’s statistics for the hearing level show representation of SSI claimants has increased in every year since the SSPA provision was implemented.

Section 302 includes a sunset provision. Under that provision, the amendments made by section 302 will not apply to claims for benefits with respect to which the claimant and the representative enter into the agreement for representation after February 28, 2010.

Because the SSPA change has increased the opportunities for SSI claimants to obtain representation, we support the provision in H.R. 4532, which makes this provision permanent.

Non-Attorney Representatives

Section 303 of the SSPA directs the Commissioner to carry out a five-year nationwide demonstration project to determine the potential results of extending the fee withholding and direct payment procedures that apply to attorneys under Titles II and XVI of the Social Security Act to non-attorney representatives who meet certain minimum prerequisites specified in section 303 and any additional prerequisites that the Commissioner may prescribe.

Under the prerequisites specified in section 303, individuals applying to participate in the demonstration project must have a bachelor's degree or equivalent education, possess liability insurance or equivalent insurance adequate to protect claimants in the event of malpractice by the representative, pass a criminal background check ensuring fitness to practice before SSA, pass an examination testing knowledge of the relevant provisions of the Act and the most recent developments in Agency and court decisions, and demonstrate ongoing completion of qualified continuing education courses. In addition, the Commissioner has required that individuals applying to participate in the demonstration project show that they have sufficient prior experience representing claimants before SSA.

The five-year demonstration project on direct payment of fees to eligible non-attorneys began on February 28, 2005, and also is scheduled to "sunset" at the end of five years. The demonstration project established by SSPA section 303 applies to claims for benefits with respect to which the agreement for representation is entered into after February 27, 2005 and before March 1, 2010.

We support the provision in H.R. 4532 that makes this provision permanent. We believe that, to date, the demonstration project has been successfully implemented by the contractor engaged by the Social Security Administration, CPS Human Resource Services. By all reports, the contractor has done a good job administering the demonstration project including periodic administration of the examination and ensuring that the other required criteria are met.

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We appreciate your support for improving SSA's service for individuals who are applying for benefits by introducing and co-sponsoring H.R. 4532. We believe that making permanent the SSPA provisions regarding representation will benefit individuals with disabilities who file claims for benefits.

Very truly yours,



Nancy G. Shor
Executive Director

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