PROTECTING THE SAFETY NET FROM WASTE, FRAUD, AND ABUSE

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

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PROTECTING THE SAFETY NET FROM WASTE, FRAUD, AND ABUSE

WEDNESDAY, JUNE 3, 2015

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:03 a.m., in Room 1100, Longworth House Office Building, the Honorable Charles Boustany [Chairman of the Subcommittee] presiding.

[The advisory announcing the hearing follows:]

COMMITTEE ON WAYS AND MEANS
CHAIRMAN PAUL RYAN

Chairman Boustany Announces Hearing on Protecting the Safety Net from Waste, Fraud, and Abuse

Today, Ways and Means Human Resources Subcommittee Chairman Charles Boustany (R-LA) announced that the subcommittee will hold a hearing titled, "*Protecting the Safety Net from Waste, Fraud, and Abuse.*" **The hearing will take place at 10:00 a.m. on Wednesday, June 3, in room 1100 of the Longworth House Office Building.**

In view of the limited time available, oral testimony at this hearing will be from invited witnesses only. Witnesses will include Members of Congress with reform proposals as well as experts on the operation of the Supplemental Security Income (SSI) and Unemployment Insurance (UI) programs. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the committee for inclusion in the printed record of the hearing.

In announcing the hearing, Chairman Boustany stated, **"The SSI and UI programs annually waste billions of dollars due to improper payment rates that average around 10 percent year after year. It's long past time that we identify the causes and start implementing real reforms to improve the integrity of these programs. That will benefit taxpayers, but especially those who most need this assistance."**

BACKGROUND:

The SSI program is the nation's largest Federal means-tested cash assistance program and is administered by the Social Security Administration. In FY 2014 it provided $53.9 billion in benefits to an estimated 8.2 million disabled and elderly individuals who currently have limited income and assets.

The Federal-State UI program assists unemployed individuals by offering weekly unemployment benefit checks while they search for work. In FY 2014 it provided $37.2 billion in benefits to an estimated 2.5 million eligible unemployed individuals a week in December 2014.

While these two programs serve separate and distinct populations, they have one chief similarity—among the highest improper payment rates of all programs supported with federal funds. In fiscal year 2014, SSI made $5.1 billion in improper payments, for an improper payment rate of 9.2 percent. The UI program made $5.6 billion in improper payments in fiscal year 2014, for an improper payment rate of 11.6 percent. Since fiscal year 2007, each program has had an annual improper payment rate near 10 percent, resulting in a total of $32 billion in SSI and $67 billion in UI improper payments since then. Such improper payments occur when taxpayer funds go to the wrong recipient, in the wrong amount, without proper documentation, or when the recipient uses taxpayer funds inappropriately.

FOCUS OF THE HEARING:

This hearing will focus on identifying waste, fraud and abuse within the SSI and UI programs as well as discussing legislative proposals to reduce improper payments and improve program integrity.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, http://waysandmeans.house.gov, select "Hearings." Select the hearing for which you would like to submit, and click on the link entitled, "Please click here to submit a statement or letter for the record." Once you have followed the online instructions, submit all requested information. Attach your submission as a Word document, in compliance with the formatting requirements listed below, **by June 17, 2015.** Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-1721 or (202) 225-3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available online at http://www.waysandmeans.house.gov/.

Chairman BOUSTANY. This committee will come to order.

Welcome to today's hearing on how we can protect key safety net programs from waste, fraud, and abuse. Today we will review risks involving Unemployment Insurance and Supplemental Security Income, which benefits low-income, elderly, and disabled individuals.

Now, UI and SSI are very different programs. But there is one thing that they have in common. Each wastes billion of dollars in taxpayer funds every year due to their high improper payment rates. Specifically with regard to fiscal year 2014, SSI improperly paid $5.1 billion, while UI improperly paid $5.6 billion.

This is a serious problem. I have a little video I want to play here. This is an investigative piece that was done by CNN that I believe explains how vulnerable the UI program is to abuse. So if we could have the video, please.

[Video shown.]

Chairman BOUSTANY. Since fiscal year 2007, SSI and UI improper payments have been near 10 percent, wasting nearly $100 billion combined in taxpayer funds. I don't see this as a partisan matter. OMB has placed both UI and SSI on their annual list of programs with the highest error rates since they started compiling such a list.

Even worse, these error rates are not improving. They are getting worse. The UI error rate actually rose last year. And a 2012 GAO report found that cumulative SSI overpayment debt rose 92 percent in the prior decade, while overpayment recovery increased only 40 percent. One cause of higher error rates is that both programs place an emphasis on getting checks out of the door before verifying that they are going to the right person.

Fortunately, we should be able to make progress there without harming those who need this vital help. And they need it right away. There is a way to deal with this. And as we learn from several of our witnesses, data systems exist that agencies can use to better prevent improper payments by identifying thieves, prison inmates, fugitives, people with significant earnings, people with significant savings, or others who simply should not be collecting these benefits.

We are very fortunate to have a number of our colleagues joining us today to discuss specific proposals to protect these programs from abuse. So today we welcome all our witnesses and look forward to learning more about how we can both reduce improper payments and improve services for the Americans who truly are in need.

So I look forward to hearing all the testimony and working with members on both sides of the aisle to do just that.

Chairman BOUSTANY. With that, I am pleased to yield to the ranking member, Mr. Doggett, for his statement.

Mr. DOGGETT. Thank you, Mr. Chair.

And I thank our colleagues for being here.

I think that, for the most part, this is an issue on which we agree. If there is fraud, if there is wrongful payment, it needs to be eliminated so that those individuals these programs were designed to serve have their needs met.

I think whether that fraud comes from billions of dollars that pharmaceutical companies improperly collect from Medicaid or

Medicare or individual receipt of an incorrect monthly payment, Congress should do everything reasonable to prevent abuse.

That is one of the reasons that I have been a sponsor of Mr. Becerra's Social Security Fraud and Error Prevention Act, on which we have been seeking a hearing, and I hope we can secure a hearing on that bill in the near future to provide new enforcement tools.

I think it is very important to not conflate identity theft, which we just heard about and which I believe not a single bill that we are discussing today addresses. It is an issue that Representative Johnson and I and Representative Brady addressed as it related to the Medicare identity and the use of Social Security numbers on Medicare.

And I think it took us many years to address it. And it could not be done without some additional resources being allocated to address this problem. And that goes to the heart of the identity theft issue. There is a serious identity theft issue with the Internal Revenue Service as well.

If these agencies are not funded to address these new technology crimes adequately, they cannot do their job. And that is something I believe we will hear about more from Representative DeLauro, from some of our other colleagues, the need to see that the resources are there to protect the taxpayer and prevent fraud.

There is a difference between identity theft, fraud of some parent applying for benefits to which they are not entitled, and then that overpayment that occurs from a miscalculation. Some of those miscalculations, to some extent, get exaggerated by the fact that so little has been done to update SSI over the years. The SSI income and earnings limits have not been raised since the program was established in 1974.

And while prompt payment and getting the check out the door may be criticized—and we certainly don't want that to happen for identity theft—if you are a parent out there with a disabled child, you want to not have to wait indefinitely to get the resources that this program was designed to provide.

The SSI asset limit has not been raised since the 1980s. These are decades-old standards that mean lower earnings, and assets trigger payments for beneficiaries in ways that were not conceived originally for the program.

There are also other specifics that need to be addressed. Senators Wyden and Hatch in the Senate and Representative Marino and I here in the House have introduced the Ensuring Access to Clinical Trials Act as a result of contact from families who have children with cystic fibrosis and would like to continue the current law that is set to expire soon that allows some beneficiaries to exempt a small amount of their income when they are participating in medical trials from the income determination under SSI.

On the whole, whether it is Mr. Reichert's PERP bill—we don't want to pay prisoners. That clearly is fraud, and we need to prevent it. I am surprised it hasn't already become law—to some of the other ideas that are advanced, I agree with the chairman, we need to be working to do everything we can, explore every option to prevent fraud.

But let's also see some focus in this subcommittee on the deficiencies in the program from the standpoint of those who it is de-

signed to help. And there is much more work to be done in that area as well.

I yield back, Mr. Chairman. Thank you.

Chairman BOUSTANY. Thank you, Mr. Doggett.

Without objection, each member will have the opportunity to submit a written statement and have it included in the record.

And I also want to remind our witnesses we are going to adhere to the 5-minute rule for oral statements. But rest assured that, without objection, all written testimony will be made part of the permanent record.

We have two panels today. We will start with a very distinguished member panel. We have Congressman Sam Johnson, Congressman Kevin Brady, Congressman Dave Reichert, Congressman Xavier Becerra, Congressman Tom Reed, Congressman Jim Renacci, and Congresswoman Rosa DeLauro.

Welcome. We are really glad to hear your testimony. We know you have done a lot of work in this area. And so we look forward to going through your testimony.

Congressman Johnson, you may begin.

STATEMENT OF THE HONORABLE SAM JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. JOHNSON. Thank you, sir.

You know, I appreciate you and Mr. Doggett holding this hearing today. Thank you.

As the chairman of the Social Security Subcommittee, I have looked at Disability Insurance programs from nearly every angle and have seen how vulnerable the program is to waste, fraud, and abuse. And make no mistake. Waste, fraud, and abuse in the disability program is a problem, a problem for the American taxpayer and a problem for deserving beneficiaries.

Social Security works hand in hand with a number of other programs that are run by the Federal Government. Because of this, many of the commonsense reforms that I have introduced also affect the program under this subcommittee's jurisdiction.

I have enjoyed working with several of you on legislation to improve these programs, and I would like to discuss a number of them today. First, I want to discuss the Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act of 2015.

In a 2012 report, the Government Accountability Office found that, under current law, thousands of people have been able to receive benefits from both unemployment and disability at the same time. Both provide cash to workers, but for different reasons. Unemployment Insurance benefits are there for those workers who have lost their jobs, but are still able to work. However, when a worker is unable to work due to a severe medical condition that is expected to last at least a year or result in death, Disability Insurance benefits are there.

Now, even though disability benefits are there for those who can't work and unemployment benefits are there for those who can work, under current law, someone can receive both at the same time. That doesn't make sense. That is why I introduced common-

sense legislation to help preserve Social Security disability benefits only for those who cannot work.

I also recently teamed up with a number of this subcommittee, Congressman Kristi Noem—thank you, Kristi—to introduce the Control Unlawful Fugitive Felons Act of 2015. This legislation is just common sense.

That is why similar bills passed the Congress in 1996 and 2004. Our bill would prevent felons fleeing a warrant as well as probation and parole violators from collecting Supplemental Security Income and Social Security.

The legislation is simple. If you are fleeing prosecution, we aren't going to give you the same benefits as law-abiding citizens. Our bill has built-in protections so that only serious criminals can be denied benefits. And Social Security has the authority to determine whether good cause exists for benefits to be restored when the matter is questionable.

Americans won't stand for criminals getting benefits, especially when Social Security will soon lack the money to pay full benefits. This bill has the support of the Social Security inspector general.

I would also like to thank the law enforcement community in my district for supporting this bill.

Mr. Chairman, I ask unanimous consent to submit several statements of support from the police chiefs as well as the country sheriff from back home.

Chairman BOUSTANY. Without objection.

[The information follows: The Honorable Sam Johnson]

Rep. Sam Johnson

Statements of Support

June 3, 2015

"In the effort to combat crime and help get dangerous felons off the streets of our communities, it is imperative that we use all of the resources available. Many times, individuals who are the subject of a felony warrant have little fear that they will be arrested. The Control Unlawful Fugitive Felon (CUFF) Act, authored by Congressman Johnson, provides an unconventional tool that will make it more difficult for felons to avoid capture and continue in their activities by removing any source of federal financial support. This Act removes the incentive for these individuals to avoid responsibility and will assist law enforcement in apprehending dangerous felons." Police Chief Greg Rushin, City of Plano

"Once again, Congressman Johnson is on the forefront of ensuring safer communities by introducing this legislation that will assist law enforcement efforts in apprehending fugitive felons. This bill will remove a source of funding that enables fugitive felons to remain at large and evade capture. Congressman Johnson's common sense approach eliminates the possibility that Social Security funds will be perverted and expended for the counter-productive use of financing felons' ability to become or remain fugitives. The law enforcement community applauds and supports Congressman Johnson for introducing this legislation." Police Chief Doug Kowalski, Town of Prosper

"I support this legislation. After all, most law and order advocates hate for any fugitive/criminal to benefit from public funds. I believe Social Security benefits are meant for law-abiding individuals who are in good standing. We do not believe that these benefits are for those who flee from charges and perhaps use those monetary benefits to remain on the run." Police Chief Kenny Jenks, City of Anna

"A citizen who has a clear responsibility to comply with a duly issued warrant for his or her arrest pending the outcome of a trier of fact, should not be allowed to benefit from public programs that support his or her life style while avoiding living up to his or her responsibilities as a citizen. Those responsibilities include the duty to yield to the authority of a court or a magistrate who, upon having been presented with a set of facts and circumstances, has issued a warrant of arrest for this person making him or her a fugitive. Fugitives should not benefit while in such a status. I, totally, support the intent of this law." Police Chief G.M. Cox, City of Murphy

"I support the Control Unlawful Fugitive Act. This legislation would restore a valuable law enforcement tool that will help keep our communities safe by disrupting a felony fugitive's ability to escape justice." Police Chief B.E Harvey, City of Allen

"I am happy to lend my support to Congressman Johnson's Control Unlawful Fugitive Felons Act. It is only right that fugitive felons be denied government benefits paid for by law abiding citizens. This legislation will very likely give us another advantage in keeping our streets safe." Police Chief Jimmy L. Spivey, City of Richardson

"I support the introduction of this important legislation. The Control Unlawful Fugitive Felon (CUFF) Act amends the Social Security Act to prohibit an individual who is the subject of an outstanding arrest warrant for a felony or parole violation from receiving Social Security Retirement and Disability benefits, Special World War II benefits, and Supplemental Security Income (SSI) payments. Removal of benefits may cause fugitives from justice to resolve their cases." Police Chief John W. Bruce, City of Frisco

"I thank Sam Johnson for his leadership in being tough on crime. By preventing felons from accessing benefits, his bill will help keep criminals from evading the law - and will ultimately help law enforcement catch these criminals." Terry G. Box, Collin County Sheriff

Mr. JOHNSON. Thank you.

Finally, I have worked closely with the chairman of this subcommittee, Chairman Boustany, on legislation that would help deter, punish, and prevent fraud in the Social Security system.

The Disability Fraud Prevention Act of 2015 would impose additional penalties and charges for those who are defrauding the retirement, disability, or Supplemental Security Income programs. We have seen scandals in West Virginia, New York, and Puerto Rico where fraudsters stole millions of dollars.

The legislation Chairman Boustany and I have produced is simple. If you commit fraud against Social Security, we will punish you and you will repay the money you took from the American taxpayer until it is made whole.

All told, these bills combined would save almost $10 billion. Of that money, $6.5 billion would go to Social Security trust funds. With the Disability Insurance trust fund running out of money in a little over a year, Congress should act on these commonsense proposals. The American taxpayers expect nothing less.

I want to thank Chairman Boustany and Congresswoman Noem for working with me on these proposals. And I want to thank you for inviting me today to discuss with you these important and commonsense measures.

Chairman BOUSTANY. Thank you, Chairman Johnson.

[The prepared statement of Chairman Johnson follows:]

Representative Sam Johnson Testimony

"Protecting the Safety Net from Waste, Fraud and Abuse"

June 3, 2015

Chairman Boustany, Ranking Member Doggett, thank you for holding this hearing today.

As the Chairman of the Social Security Subcommittee, I've looked at the Disability Insurance program from nearly every angle and have seen how vulnerable the program is to waste, fraud, and abuse. And make no mistake: waste, fraud, and abuse in the disability program is a problem – a problem for the American taxpayer and a problem for deserving beneficiaries.

Social Security works hand-in-hand with a number of other programs that are run by the Federal government. Because of this, many of the commonsense reforms I have introduced also affect the programs under this Subcommittee's jurisdiction. I have enjoyed working with several of you on legislation to improve these programs, and I would like to discuss a number of them today.

First, I want to discuss the **Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act of 2015.**

In a 2012 report, the Government Accountability Office found that, under current law, thousands of people have been able to receive benefits from both the Unemployment Insurance program and the Disability Insurance program at the same time. Both provide cash to workers, but for different reasons.

Unemployment Insurance benefits are there for those workers who have lost their jobs but are still *able* to work.

However, when a worker is *unable* to work due to a severe medical condition that is expected to last at least a year or result in death, Disability Insurance benefits are there.

Now even though disability benefits are for those who *can't* work and unemployment benefits are for those who *can* work, under current law someone can receive *both* benefits at the same time!

That just doesn't make sense!

That's why I introduced common-sense legislation to help preserve Social Security disability benefits *only* for those who truly cannot work.

The President has included a similar proposal in his budget for the last two years. And while there are very few things on which I agree with this President, on this we are on the same page. It's just not right for someone to double-dip.

Now, we do have slightly different approaches. And I'm concerned that President Obama's approach could lead to additional overpayments by the Social Security Administration, which already happens far too often due to Social Security's mistakes.

I also recently teamed up with a member of this Subcommittee, Congresswoman Kristi Noem, to introduce **the Control Unlawful Fugitive Felons Act of 2015.**

This legislation is just commonsense – that's why similar bills passed Congress in 1996 and 2004. Our bill would prevent felons fleeing a warrant, as well as probation and parole violators, from collecting Supplemental Security Income and Disability Insurance benefits.

The legislation is simple: if you're fleeing prosecution, we aren't going to give you the same benefits as law-abiding citizens.

Our bill has built-in protections so that only serious criminals can be denied benefits. And Social Security has the authority to determine whether good cause exists for benefits to be restored when the matter is questionable.

Americans won't stand for criminals getting benefits, especially when Social Security will soon lack the money to pay full benefits to law-abiding citizens. This bill has the support of Social Security's Inspector General. I would also like to thank the law enforcement community in my district for supporting this bill. Mr.

Chairman, I ask unanimous consent to submit several statements of support from police chiefs as well as the county sheriff from back home.

Finally, I have worked closely with the Chairman of this Subcommittee, Chairman Boustany, on legislation that would help to deter, punish, and prevent fraud in the Social Security system.

The Disability FRAUD Prevention Act of 2015 would impose additional penalties and charges for those who are defrauding the retirement, disability, or Supplemental Security Income programs.

We have seen scandals in West Virginia, New York, and Puerto Rico where fraudsters stole millions of dollars from the American taxpayer!

The legislation Chairman Boustany and I have introduced is simple: If you commit fraud against Social Security, we will punish you and you will repay the money you took until the American taxpayer is made whole. And, we will require Social Security to review representatives that are outliers.

All told, these bills combined would save almost $10 billion. Of that money, $6.4 billion would go to the Social Security Trust Funds. With a Disability Insurance Trust Fund running out of money in a little over a year, this is just common sense. The American taxpayers expect nothing less.

Thank you for inviting me today to discuss with you these important and common-sense measures.

Chairman BOUSTANY. Mr. Brady, you may proceed.

STATEMENT OF THE HONORABLE KEVIN BRADY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BRADY. Chairman Boustany, Ranking Member Doggett, all the subcommittee members, a good-paying job is the best solution to income inequality and ensures the ladder of success is open to every American willing to get a skill and work hard.

A solid education, workforce training programs that actually perform in better connecting local workers with local jobs, that is the key to good-paying job. And it is even more important as millions of Americans continue to look for work in the worst economic recovery in half a century.

So given our half-trillion dollar deficit that will only grow and the impact that has on future generations, when it comes to safety net programs, our principles should be clear. One, no Federal program should pay more than a job. Two, no Federal program should trap Americans in poverty. And, three, let's fund programs that are proven to work and not a dime to those that don't.

Despite all the Federal programs, we have a lot of Americans still living below the poverty line. It is our job to not only protect taxpayers, but to redirect them towards the programs that actually get people to independence and out of poverty.

Chairman Boustany talked about the stunning $5.6 billion in improper payments in Unemployment Insurance in 2014. That is as much as we spend for the entire Federal job training program. Think about it. We waste as much as we spend on all the programs to help get people back to work.

Like Congressman Johnson and others on the panel today, I have two suggestions to help stretch those dollars and redirect them. The first one, relatively minor. Stop double dipping of unemployment benefits by furloughed Federal workers.

You may remember that, during the temporary shutdown in 2013, some Federal employees were furloughed and applied for and received unemployment benefits. The Federal employees were later provided retroactive pay, but some States considered paying their Federal workers twice for not working at all.

The Furloughed Federal Employee Double Dip Elimination Act prevents that in the future. My guess is, while that is not looming on the horizon, some day it may. So let's make it clear you don't get paid twice for not working.

But the bigger solution really is about unemployment. Another problem plaguing America in our unemployment program is illegal substance abuse. We want Americans to earn paychecks instead of collecting unemployment checks. Yet, one of the worst common reasons, most common reasons, individuals can't return to work is due to the fact that they cannot pass a drug test.

In the 2006 report, the Society for Human Resource Management said 84 percent of private employers conducted pre-employment drug testing. That has only grown mostly because of the Federal mandates dealing with security after 9/11.

So with the majority of employers subjecting job applicants to drug testing, the Federal Government should allow States to incor-

porate drug testing into their UI programs if they believe it will help connect these individuals to full-time employment.

The bottom line is that taxpayers shouldn't subsidize drug use. If you are on illegal drugs, you are simply not job-ready. And, in short, the Federal unemployment program should be a drug-free zone.

To address the problem, Congress has already passed legislation that the President signed, the Middle Class Tax Relief and Job Creation Act of 2012, supported by many lawmakers, Republicans and Democrats, on the Ways and Means Committee. It included a carefully crafted compromise that for the first time allowed States to screen and test unemployment recipients for illegal substances.

Unfortunately, after years of inexcusable delay and roadblocks that ignored the language and intent of the law, the Department of Labor has issued proposed guidance on this provision. It is simply unworkable for States that are interested in drug testing their unemployment recipients and getting the help they need in getting them into a job.

The bottom line is States are ready to implement the law that is on the books. The Federal Government must uphold its promise. My home State of Texas has already passed legislation and has been recognized by the White House for the innovative ways to get Texans back to work.

But, again, the White House needs to apply the law, allow States like Texas and others to continue that innovation and get people back into work and making good wages rather than collecting benefit checks.

Mr. Chairman, ranking member, and members, I am ready to work with the subcommittee as we go forward with these reforms. Thanks for having me here today.

Chairman BOUSTANY. Thank you, Chairman Brady. And thank for your work in this area.

[The prepared statement of Chairman Brady follows:]

Representative Kevin Brady Testimony

"Protecting the Safety Net from Waste, Fraud and Abuse"

June 3, 2015

A Good Paying Job the Best Solution to Income Inequality

Good morning and thank you Chairman Boustany and Ranking Member Doggett for providing me the opportunity to testify today.

A good paying job is the best solution to income inequality and to ensure the ladder of success is open to all Americans willing to get a skill and work hard. A solid education, workforce training programs that actually perform, and better connecting local workers to local jobs are key to that good paying job. That's even more important as millions of Americans continue to search for full-time jobs in the most disappointing economic recovery in half a century.

Principles for Safety Net Programs

Given the half-trillion dollar annual deficits our federal government continues to run, and the damage this does to future generations, when it comes to safety net programs our principles should be clear: No federal program should pay more than a job. No programs should trap Americans in poverty. Fund programs that are proven to work, and not a dime to those that don't.

According to the most recent Census Bureau approximately 17.6 percent of Texans live below the poverty level. Despite a host of federal programs created to end the cycle of poverty, many Americans across the country still live below the poverty line. It's our job as legislators to protect taxpayer dollars from going towards ineffective programs and redirect them towards programs that do what they were intended to do—which is to help lift individuals out of poverty and into independence. It is also our job to ensure these dollars are not being wasted on improper payments to individuals that don't qualify for them.

Stop Wasting Precious Unemployment Insurance Dollars

In the 2014 budget year the Unemployment Insurance program made a stunning $5.6 billion in improper payments to individuals who don't quality for them. That's more than we spend on our nation's job training system— money that could have been spent on actually getting people the training needed to get back to work quickly. There are several common-sense solutions Congress should take to help reduce wasteful spending in our unemployment program, help get people back to work, and preserve our tax dollars for those that need them.

Legislation Furloughed Federal Employee Double Dip Elimination Act

First, stop double dipping of Unemployment benefits by furloughed federal workers.

Under current law unemployed civilian federal employees may be eligible for the Unemployment Compensation for Federal Employees program. During the temporary lapse in appropriations that occurred in October 2013, some federal employees were furloughed and applied for and received unemployment benefits. These federal employees were later provided retroactive pay for this same period of "unemployment." Instead of recovering the overpayments, some states considered allowing their federal employees to get paid twice for not working. Oregon, for example, had a rule that would permit this type of double dipping. If states failed to recover the unemployment overpayments it could cost taxpayers millions of dollars.

The *Furloughed Federal Employee Double Dip Elimination Act* prevents this wasteful spending by clarifying that if a federal employee receives back pay for the period he or she was furloughed, the federal employee is not eligible for unemployment benefits for that same period and would have to repay any unemployment benefits received. While the Department of Labor listened to congressional concerns and sent out strict guidance to states to collect unemployment benefit overpayments, guidance is not the same as law. We need to guarantee that States will recover future overpayments.

Unemployment Should Be a "Drug Free" Zone

Another problem plaguing America and our unemployment program is illegal substance abuse.

We want Americans to earn paychecks instead of collecting unemployment checks, yet one of the most common reasons individuals cannot return to work is due to the fact that they cannot pass a drug test. In a 2006 report, the Society for Human Resource Management said that 84 percent of private employers conducted pre-employment drug testing. It's grown larger since, with federal security mandates driving much of the growth. With the majority of employers subjecting job applicants to drug testing, the Federal government should allow states to incorporate drug testing into their UI programs if they believe it will help connect these individuals to full-time employment.

The bottom line is that taxpayers shouldn't subsidize drug use. If you're on illegal drugs you are simply not job-ready. In short, the federal unemployment program should be a drug free zone.

To address this problem The *Middle Class Tax Relief and Job Creation Act of 2012,* which was signed by President Obama and supported by many lawmakers on the Ways & Means Committee, included a carefully crafted compromise that, for the first time, allows states to screen and test unemployment recipients for illegal substances. After years of inexcusable delay and roadblocks that ignore the language and intent of the law, the Department of Labor has issued proposed guidance on this provision. However, the proposed guidance is simply unworkable for states that are interested in drug testing their unemployment recipients and getting them the help they need and into a job quickly.

The bottom line is that the states are ready to implement and the Federal government must uphold its promise. My home state of Texas has already been recognized by the White House for their innovative ways to get Texans back to work. But again, the White House needs to apply the law and allow states like Texas to continue that innovation when it comes to getting the unemployed back to work and making good wages rather than collecting benefit checks.

Conclusion

Thank you again for having me here today. I am committed to working with my colleagues on both sides of the aisle to find real solutions to not only creating more jobs and getting Americans back to work in a pro-business environment, but cleaning up our safety-net programs and making them work for both individuals in need and taxpayers.

It is critical we continue to fight to create jobs and reduce the dependence on federal programs without additional government spending, new bureaucracies or crippling debt that will be left to future generations.

Chairman BOUSTANY. Next, we will hear from Chairman Reichert.

You may proceed.

STATEMENT OF THE HONORABLE DAVE REICHERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. REICHERT. Thank you, Mr. Chairman, and thank you, Ranking Member Doggett, for inviting me here today to talk about the PERP Act.

And I just want to take a moment to thank Matt and Ryan of your staff for the innovative acronym. That was, I think, accomplished on behalf of my past profession as a police officer. So PERP Act actually stands for Permanently Ending Receipt by Prisoners. So I thought that was pretty innovative on their part.

I introduced this bill last Congress as chairman of the subcommittee with the full support of many of you that are sitting here today. And I appreciate Chairman Boustany's continued support as well as Mr. Renacci's for joining me once again in introducing this commonsense piece of legislation.

The PERP Act is very straightforward. Understanding that the existing UI program rules that operate in all States, an individual must be able, they must be available, and they must be actively seeking work in order to be eligible to collect UI benefits, which are paid to those who are unemployed through no fault of their own.

Individuals confined in jails, prisons, and other penal institutions are, by definition, not able and not available to work and have historically been presumed to be not eligible for UI benefits. However, in recent years, thanks to news articles that have appeared in multiple States, it has become clear that this law is not being properly enforced.

Headlines included from Illinois State, "More Than 2 million in Unemployment Benefits Went to Inmates"; from New Jersey, "Audit Says 20,000 Inmates Were Mistakenly Paid Nearly $24 million in State and Federal Benefits"; from Pennsylvania, "Inmates Collect Millions in Unemployment Benefits in Philadelphia Jails"; and, again, from South Carolina, "Government Waste: Inmates Collecting Millions in Fraudulent Unemployment Checks."

These articles and many others make clear that taxpayer money is being wasted on these payments by the millions. We must make it crystal clear that this is absolutely unacceptable. Incarcerated individuals should not be receiving unemployment benefits meant for individuals and families fallen on hard times and working to get back on their feet.

States must be making affirmative efforts to end this abuse. Law-abiding taxpayers should never have to worry that their tax dollars are being spent on improper payments to those who have broken the same laws they work so hard to follow.

The PERP Act resolves this problem by taking the following steps: Number one, it bars States from paying unemployment insurance checks to local, State, and Federal prisoners, strengthening a current implied prohibition because prisoners are not able and available for work, as I said; number two, it requires State UI

agencies to regularly compare UI roles with currently available inmate rosters to ensure UI checks are not paid to current inmates.

At a minimum, these States must access and use prisoner information that the Social Security Administration has collected and used since the late 1990s to prevent the payment of Supplemental Security Income, SSI, benefits checks to currently incarcerated individuals. This current data match is simple, it is quick, and it is efficient and can readily be replicated by States to ensure that UI benefit checks are not paid to prisoners.

In 2011, the UI program paid out a total of $10.3 billion in improper payments. By ensuring that none of those payments continue to go to individuals in jails and prisons, we can take a major step towards increasing that total amount. By ending the reliance on self-reporting of ineligibility for UI benefits and, instead, requiring States to use already existing Federal databases of prisoners, we can create a simple, efficient, and affordable system.

Again, I thank my Ways and Means Committee colleagues for listening to my testimony today and for the invitation to be here to share thoughts on this legislation. I appreciate your support.

And I yield back.

Chairman BOUSTANY. I thank the chairman for his testimony.

[The prepared statement of Chairman Reichert follows:]

WRITTEN TESTIMONY OF CHAIRMAN DAVE REICHERT (R-WA)
ON THE PERMANENTLY ENDING RECEIPT BY PRISONERS ACT
BEFORE THE SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS & MEANS
JUNE 3, 2015

Chairman Boustany, Ranking Member Doggett, thank you for having me before you today to talk about the Permanently Ending Receipt by Prisoners (or PERP) Act. As you are aware, I introduced this bill last Congress as Chairman of this Subcommittee with the full support of many of you sitting here today, and I appreciate Chairman Boustany's continued support as well as Mr. Renacci's for joining me once again in introducing this common-sense piece of legislation.

The PERP Act is very straightforward. Under existing UI program rules that operate in all States, an individual must be able, available, and actively seeking work in order to be eligible to collect UI benefits, which are paid to those who are unemployed through no fault of their own. Individuals confined in jails, prisons, and other penal institutions are by definition not "able and available" to work and have historically been presumed to be not eligible for UI benefits.

However, in recent years, thanks to news articles in multiple states, it has become clear that this law is not being property enforced. Headlines included: from Illinois: "State: More than $2M in Unemployment Benefits Went to Inmates" (10/9/12); from New Jersey: "Audit Says 20,000 Inmates Were Mistakenly Paid Nearly $24M in State and Federal Benefits" (5/29/13); from Pennsylvania: "Inmates Collect Millions in Unemployment Benefits in Philadelphia Jails" (2/20/13); and from South Carolina: "Government Waste—Inmates Collecting Millions in Fraudulent Unemployment Checks" (2/21/13). These articles, and many others, make clear that tax payer money is being wasted on these payments by the millions.

We must make it crystal clear that this is absolutely unacceptable. Incarcerated individuals should not be receiving unemployment benefits meant for individuals and families fallen on hard times and working to get back on their feet. And states must be making affirmative efforts to end this abuse. Law-abiding tax payers should never have to worry that their tax dollars are being spent on improper payments to those who have broken the same laws they work so hard to follow.

The PERP Act resolves this problem by taking the following steps:

1. Bars States from paying UI checks to local, state and federal prisoners, strengthening a current implied prohibition because prisoners are not "able and available" for work; and
2. Requires State UI agencies to regularly compare UI rolls with currently available inmate rosters to ensure UI checks are not paid to current inmates. At a minimum, States must access and use prisoner information the Social Security Administration has collected and used since the late-1990s to prevent the payment of Supplemental Security Income (SSI) benefit checks to currently incarcerated individuals. This current data match is simple,

quick, and efficient, and can readily be replicated by States to ensure that UI benefit checks are not paid to prisoners.

In 2011, the UI program paid out a total of $10.3 billion in improper payments. By ensuring that none of those payments continue to go to individuals in jails and prisons, we can take a major step towards decreasing that total amount. By ending the reliance on self-reporting of ineligibility for UI benefits, and-instead requiring States to use already existing federal databases of prisoners, we can create a simple, efficient, and affordable system to ensure a better UI payment system.

I thank my Ways and Means colleagues again for listening to my testimony today and I urge you all to move quickly on this issue so that we can enact responsible legislation and make sure taxpayer dollars are being used for good rather than irresponsible governance.

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Chairman BOUSTANY. Next, we will go to Congressman Becerra. Thank you. Another member of the Ways and Means Committee.

STATEMENT OF THE HONORABLE XAVIER BECERRA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BECERRA. Mr. Chairman, Ranking Member Doggett, and Members of the Committee, thank you for the opportunity to talk about fighting errors and fraud in the programs Americans depend on.

I want to begin by noting that the Social Security Administration has very effective tools to prevent fraud and errors, and these tools have been proven to work. What SSA does not have are the resources to fully deploy those tools to fight fraud and errors.

Today, as I talk about my legislation, the Social Security Fraud and Errors Prevention Act of 2015, I also want to make sure to discuss how budget decisions Congress makes impact the SSA's ability, the Administration's ability, to use the effective tools it has developed for this purpose of fighting fraud and errors.

Since 2010, the Social Security Administration's local offices, the front lines against fraud and error, have lost more than 5,000 skilled employees to budget cuts and dozens of local offices have closed their doors. And to the point of this hearing, as a result of budget cuts, the Social Security Administration has fewer fraud investigators on the beat now than it had 5 years ago.

In each of the past 5 years, the Social Security Administration received an average of $1 billion less than it needed to manage Social Security and Supplemental Security Income programs. I said a billion, not a million. The Social Security Administration's budget is lower now than it was in 2010, even though it is providing services to more than 7.5 million additional Americans today than in 2010.

In 2 of the last 4 years, this Congress has failed to allocate funding provided by the Budget Control Act for Social Security and SSI eligibility reviews, which have been demonstrated to save as much as $13 for every $1 we invest in those reviews to fight fraud. Using the most conservative estimates of return on investment, American taxpayers have lost between $2 billion and $6 billion because of this failure to act.

Budget cuts are also undermining the customer service that American workers pay for with their tax dollars. Americans are waiting more than 2 weeks just to schedule an appointment in a Social Security office. Callers to Social Security's 800 number wait an average of 22 minutes, and that is if they can get through at all. More than a third of the callers get a busy signal and give up before getting an operator.

Processing time for applications for those who qualify on the basis of a disability are rising. Right now, over a million people are awaiting a hearing before an administrative law judge. And wait times are now in excess of 450 days.

Time and again, the Social Security Administration has proven that it can fight effectively against fraud and errors if Congress just provides the resources. Recently, the Social Security Adminis-

tration discovered sophisticated fraud conspiracies in New York and Puerto Rico. Thanks to the investigators, hundreds of arrests have been made, benefits have been terminated, and improperly paid benefits are being recovered.

The Social Security Administration has developed tools to prevent payment errors, ranging from simple prepayment reviews to sophisticated computer modeling that identify patterns of fraud and error. On average, using these tools saves more than $10 for every $1 the Social Security Administration invests in them.

Last year, about 1,300 people were convicted of Social Security fraud based on investigations conducted by the Social Security Administration's inspector general. The special Social Security Administration fraud prosecutors secured nearly $9 million in restitution for the Social Security trust fund.

Nearly a year and a half ago, several members introduced a Social Security Fraud and Error Prevention Act, H.R. 1419, in this Congress. Our bill provides a secure stream of dedicated resources to ensure that Social Security can use its most effective proven tools to root out fraud and prevent waste and errors. It also incorporates the recommendations made by the Social Security Administration's inspector general.

We would make sure that there are pre- and post-payment case reviews to make sure that only those who are supposed to receive benefits get them. We would ensure that SSA has enough resources to recover overpayments and collect the monetary penalties that are assessed for fraud.

We would guarantee the fraud investigation budget of the Social Security inspector general. And we would fund special prosecutors for Social Security in order to end the budget cuts that have let some criminals get away with fraud.

Our bill would also expand Social Security's ability to detect and punish fraud by expanding elite fraud-fighting units and increasing penalties against those who conspire to commit fraud, including those in a position of trust, such as doctors who provide false evidence of disability.

The Ways and Means Committee has yet to consider our bill or any other plan to support the Social Security Administration's efforts to reduce fraud and error, but we hope that we will have an opportunity soon to hold that type of a hearing to move forward with the Social Security Administration.

Working together, we can secure Social Security dollars for those who paid them and earned them. And, Mr. Chairman, I think we all agree that we can move on this in a way that helps secure Social Security and all those services that we provide to people because they paid for them and earned them.

I yield back.

Chairman BOUSTANY. Thank you, Congressman Becerra. We appreciate your testimony.

[The prepared statement of Congressman Becerra follows:]

Congressman Xavier Becerra
Testimony before the Human Resources Subcommittee
June 3, 2015

Mr. Chairman, thank you for the opportunity to talk about my bill to fight errors and fraud in Social Security.

I want to begin by noting that the Social Security Administration (SSA) has very effective tools to prevent fraud and errors, and these tools have been proven to work. What SSA does not have – thanks to Congressional budget cuts over the past 5 years – is the resources to fully deploy those tools in defense of Social Security and Supplemental Security Income (SSI).

Today I want to talk about my legislation, "The Social Security Fraud and Error Prevention Act of 2015." I also want to discuss how the budget decisions Congress has made over the past five years have undermined SSA's ability to use the very effective tools it has developed for this purpose.

Congressional budget cuts have undermined Social Security's fraud-fighting efforts. In each of the past five years, SSA received an average of a billion dollars less than it needed to manage Social Security and Supplemental Security Income (SSI). I said, a "billion," not a "million." SSA's budget is lower now than it was in 2010, even though it is providing services to more than 7.5 million additional Americans.

Since 2010, SSA's local offices – the front lines against fraud and errors – have lost more than 5,000 skilled employees to budget cuts, and dozens of local offices have closed their doors. And, to the point of this hearing, thanks to budget cuts, SSA has fewer fraud investigators on the beat now than it had 5 years ago.

In two of the last four years, this Congress has failed to allocate funding provided by the Budget Control Act for Social Security and SSI eligibility reviews, which have been demonstrated to save as much as $13 for every dollar we invest. Using the most conservative estimates of return on investment, American taxpayers lost between $2 billion and $6 billion because of this irresponsible action.

Some say SSA should "prioritize" the work it does, but SSA's budget is stretched thin in every way. Budget cuts are also undermining the customer service that American workers pay for with their tax dollars and contributions. Americans are waiting more than 2 weeks just to schedule an appointment in a Social Security office. Callers to Social Security's 800 number wait an average of 22 minutes – if they get through at all. More than a third of callers get a busy signal or give up before getting an operator. Processing times for applications for those who qualify on the basis of a disability are rising. Right now, over a million people are awaiting a hearing before an SSA Administrative Law Judge, and wait times are in excess of 450 days.

Time and time again, SSA has proven that it can effectively fight fraud and errors if Congress just provides the resources. SSA recently discovered sophisticated fraud conspiracies in New York and Puerto Rico. Thanks to the vigilance of SSA's front-line employees and the hard work of its investigators, hundreds of arrests have been made, benefits have been terminated, and improperly-paid benefits are being recovered.

SSA has developed a wide array of tools to prevent payment errors, ranging from simple pre-payment reviews to sophisticated computer modeling that identifies patterns most likely to signal fraud or errors. On average, using these tools saves more than $10 for every dollar SSA can invest.

Last year, about 1,300 people were convicted of Social Security fraud based on investigations conducted by Social Security's Inspector General. Special SSA fraud prosecutors secured nearly $9 million in restitution for the Social Security trust fund.

There is a plan in Congress to help SSA fight fraud and prevent errors. Nearly a year and a half ago, Ways and Means Democrats introduced "The Social Security Fraud and Error Prevention Act" (H.R. 1419 in this Congress).

Our bill provides a secure stream of dedicated resources to ensure that Social Security can use its most effective, proven tools to root out fraud and prevent waste and errors. It also incorporates recommendations made by SSA's Inspector

General. We would invest in pre- and post-payment case reviews, to make sure that only those who are supposed to receive benefits get them. We would ensure that SSA has enough resources to recover overpayments and collect the monetary penalties that are assessed for fraud. We would guarantee the fraud investigation budget of the Social Security Inspector General, and we would fund special prosecutors for Social Security, in order to end the budget cuts that have let some criminals get away with fraud.

Our bill would also expand Social Security's ability to detect and punish fraud, by expanding elite fraud-fighting units and increasing penalties against those who conspire to commit fraud, including those in a position of trust – such as doctors -- who provide false evidence of disability.

The Ways and Means Committee has yet not considered our bill – or any other plan to support SSA's efforts to reduce fraud and errors.

But I hope we soon will.

Chairman BOUSTANY. Next we will go to Congressman Reed, another valued member of the Ways and Means Committee.

You may proceed, sir.

STATEMENT OF THE HONORABLE TOM REED, A REPRESENTATIVE IN CONGRESS FROM WASHINGTON, D.C.

Mr. REED. Well, thank you, Mr. Chairman and Ranking Member Doggett and all the Members of the Subcommittee.

As a former member of this subcommittee, it is an honor to appear before you today to discuss important reform measures within the Supplemental Security Income program. Too often, Federal policies directed at supporting individuals and families in poverty do not require results, leaving too many Americans in need with too few opportunities to break the cycle of poverty.

What we do know is that education, even a high school diploma, is a key to higher earnings and a likelihood to be employed, which can help break the cycle of poverty that many youth in America are faced with. That is why I introduced H.R. 2511, the School Attendance Improves Lives, or SAIL, Act.

The SAIL Act will require youth, ages 16 and 17, receiving Supplemental Security Income, SSI, to attend school with appropriate, but limited, exceptions when the health of the child does not permit school attendance.

I care about our Nation's youth, and I want them to reach adulthood with the skills they need to succeed. It is imperative to encourage and incentivize young people to stay in school and build a future full of opportunity, self-sufficiency, and economic success. This encouragement must begin with the parents of children receiving SSI.

Parents must provide the best opportunities for their children to succeed. Letting children on SSI drop out of school is not fair to them, and it leaves them far less equipped to succeed as adults. It is for this reason that high school dropouts have the highest rate of unemployment today.

My bill improves accountability within the SSI program to ensure children do not find themselves in this position. Roughly 66 percent of youth on SSI are still in the program at age 19, which drastically increases the likelihood that they will remain on SSI well into their adulthood.

One reason children on SSI continue to receive benefits for extensive lengths of time is that the program does not offer incentives for personal success. This measure is one way to ensure those receiving SSI continue toward the path of self-sufficiency.

We can and must do better for those in this program. Thirty percent of children ages 17 and 18 on SSI are not attending school. By requiring children to remain in school as they receive SSI, these individuals will increase their likelihood of graduation, obtaining employment, and breaking that cycle of poverty that we all agree must be broken. Attending school enables these children to achieve their true potential.

When poverty affects more than 46 million Americans, it is imperative that we work together to address this issue by giving those in need all the tools to empower themselves. Emphasizing education by including accountability measures within SSI is an

important step, in my opinion, toward achieving this goal, and I offer it to the subcommittee for consideration and, hopefully, action soon here in the 114th congressional session.

With that, I yield back, Mr. Chairman.

[The prepared statement of Congressman Reed follows:]

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23RD DISTRICT, NEW YORK

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Statement of The Honorable Tom Reed
Member of Congress
Before the Subcommittee on Human Resources
Of the U.S. House of Representatives Committee on Ways and Means
June 3, 2015

Thank you, Chairman Boustany, Ranking Member Doggett, and all the members of the Subcommittee. As a former member of this Subcommittee, it is an honor to appear before you today to discuss important reform measures within the Supplemental Security Insurance (SSI) program.

Too often federal policies directed at supporting individuals and families in poverty do not require results, leaving too many Americans in need with too few opportunities to break the cycle of poverty. What we do know is that education, even a high-school diploma, is a key to higher earnings and a propensity to be employed, which can help break the cycle of poverty that many youth in America are faced with. That is why I introduced H.R. 2511, the *School Attendance Improves Lives (SAIL) Act*.

The *SAIL Act* will require youth ages 16 and 17 receiving Supplemental Security Income (SSI) to attend school with appropriate but limited exceptions when the health of the child does not permit school attendance. I care about our nation's youth and I want them to reach adulthood with the skills they need to succeed. It is imperative to encourage and incentivize young people to stay in school and build a future full of opportunity, self-sufficiency, and economic success. This encouragement must begin with the parents of children receiving SSI. Parents must provide the best opportunities for their children to succeed. Letting children on SSI drop out of school is not fair to them and it leaves them far less equipped to succeed as adults. It is for this reason that high school dropouts have the highest rate of unemployment today. My bill improves accountability within the SSI program to ensure children do not find themselves in this position.

Roughly 66 percent of youth on SSI are still on the program at age 19, which drastically increases the likelihood that they will remain on SSI well into their adulthood. One reason children on SSI continue to receive benefits for extensive lengths of time is that the program does not offer incentives for personal success. This measure is one way to ensure those receiving SSI continue toward the path to self sufficiency. We can and must do better for those in this program. Thirty percent of children ages 17 and 18 on SSI are not attending school. By requiring children to remain in school as they receive SSI, these individuals will increase their likelihood of graduation, obtaining employment and breaking out of poverty. Attending school enables these children to achieve their true potential.

Poverty affects more than 46 million Americans. It is imperative that we work to address this issue by giving those in need the tools to empower themselves. Emphasizing education by including accountability measures within SSI is an important step towards achieving this goal.

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Chairman BOUSTANY. I thank the gentleman.

Next we will go to Congressman Renacci, another member of the Ways and Means Committee.

You may proceed sir.

STATEMENT OF THE HONORABLE JAMES RENACCI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. RENACCI. Mr. Chairman, Ranking Member Doggett, members of the Human Resources Committee, thank you for the opportunity to be here today to discuss member initiatives to restore program integrity in UI and SSI.

In 2010, the good people of northeast Ohio elected me to represent them in Washington, and I thank them for the opportunity to help change business as usual.

Since taking office, I have sought to work with both Republicans and Democrats alike to help advance the pro-growth policies we need to get America's economy moving again and to provide faith in the idea of the American Dream: If you work hard, you can be successful.

This is why I firmly believe that we must place progress over politics and work together to end the job-crushing politics that have consumed Washington and choked progress toward economic recovery.

I am honored to serve on the Ways and Means Committee with many colleagues in this room today. We continue to work to implement smart policies aimed at stabilizing our entitlement programs and simplifying our Federal tax system, among other things.

The focus of this hearing is finding ways to reduce waste, fraud, and abuse in the UI and SSI systems. And I applaud my colleagues who are testifying with me on their efforts to improve program integrity.

Over the last several years, we have been discouraged by some of the worst job reports we have seen in recent times. Though the unemployment rate has ticked down, it is largely due to our shrinking labor force. The lesson learned is clear: We must turn to pro-growth solutions that will help northeast Ohioans and Americans across the country get back to work.

That is why I introduced the Flexibility to Promote Reemployment Act with my friend John Carney from Delaware, a co-founder of a bipartisan working group that he and I had founded 4 years ago.

This bipartisan bill would encourage job creation by providing States with more flexibility to help unemployed individuals collect paychecks instead of benefit checks.

Under the Middle Class Tax Relief and Job Creation Act of 2012, the Department of Labor was granted waiver authority within the Unemployment Insurance program. The waivers allowed unprecedented flexibility in the use of State UI funds, enabling States to operate demonstration projects designed to assist the unemployed in their efforts to reenter the workforce.

To date, Texas is the only State that has applied for a waiver, and its application was swiftly denied. Many States have described the rigorous application process created by the Department of

Labor as onerous and time-consuming, including my State, Ohio. So, today, no State is participating.

At a time when too many continue to struggle with unemployment, we should be doing everything we can to help incite growth and investment in our local communities. It is time for the Department of Labor to go back to the drawing board and reassess its application requirements.

The Flexibility to Promote Reemployment Act would require the Department of Labor to do just that, benefiting both employers and employees. It would implement a series of reforms to the current waiver in an attempt to make it more appealing to States, increasing States' flexibility to help unemployed individuals find employment.

Among the reforms in the Flexibility to Promote Reemployment Act, this bill would clarify application requirements and demonstration activities, allow for greater transparency in the demonstration determination process, and require an evaluation from the Department of Labor with cooperation by the States. Additionally, this legislation further extends the deadline for waiver applications to 2019.

It is critical that we reduce the unnecessary Washington red tape that stands in the way of job growth in Ohio's 16th District and throughout the country. A good place to start is by working with States to make unemployment programs more effective to both job seekers and job creators.

Encouraging job creation is not a partisan issue. Democrats and Republicans alike agree we must advance policies that will fuel the economic recovery we so desperately need.

I fully expect that my colleagues on both sides of the aisle will support the Flexibility to Promote Reemployment Act, and I look forward to seeing this bipartisan, commonsense legislation swiftly moved through the legislative process.

Again, thank you for holding this hearing. I look forward to working with all of my colleagues to advance many of the initiatives discussed today.

Chairman BOUSTANY. I thank my colleague for his testimony.

[The prepared statement of Congressman Renacci follows:]

Congressman Jim Renacci
6.3.15

In my earlier years, I never thought about running for Congress. However, as time went on and I became a father of three, I grew more and more concerned about the direction our country was moving. I strongly believed that we must change course. In 2010, the good people of Northeast Ohio elected me to represent them in Washington, and I thank them for the opportunity to change business as usual.

Since taking office, I have sought to work with both Republicans and Democrats alike to help advance the pro-growth policies we need to get America's economy moving again and to revive faith in the idea of the American Dream – if you work hard, you can be successful. As the first member of my family to graduate from college, I personally identify with this sentiment. This is why I firmly believe that we must place progress over politics and work together to end the job-crushing policies that have consumed Washington and choke progress toward economic recovery. I am honored to serve on the Ways and Means Committee with my colleagues in this room today. We continue to work to implement smart policies aimed at stabilizing our entitlement programs and simplifying our federal tax system, among other things.

The focus of this hearing is finding ways to reduce waste, fraud, and abuse in the UI and SSI systems, and I applaud my colleagues who are testifying with me on their efforts to improve program integrity.

Over the last several years, we have been discouraged by some of the worst jobs reports we have seen in recent times. Though the unemployment rate has ticked down, it was largely due to our shrinking labor force. The lesson learned is clear – we must turn to pro-growth solutions that will help Northeast Ohioans and Americans across the country get back to work.

That is why I introduced the Flexibility to Promote Reemployment Act with my friend John Carney from Delaware, the co-founder of our Bipartisan Working Group. This bipartisan bill would encourage job creation by providing states with more flexibility to help unemployed individuals collect paychecks instead of benefit checks.

Under the Middle Class Tax Relief and Job Creation Act of 2012, the Department of Labor was granted waiver authority within the unemployment insurance program. The waivers allowed unprecedented flexibility in the use of state UI funds, enabling states to operate demonstration projects designed to assist the unemployed in their efforts to re-enter the workforce. To date, Texas is the only state that has applied for a waiver and its application was swiftly denied. Many states have described the rigorous application process created by the DOL as onerous and time consuming.

At a time when too many continue to struggle with unemployment, we should be doing everything we can to help incite growth and investment in our local communities. It is time for DOL to go back to the drawing board and reassess its application requirements.

The Flexibility to Promote Reemployment Act would require the DOL to do just that, benefiting both employers and employees. It would implement a series of reforms to the current waiver in an attempt to make it more appealing to states, increasing states' flexibility to help unemployed individuals find employment. Among the reforms in the Flexibility to Promote Reemployment Act, this bill would clarify application requirements and demonstration activities, allow for greater transparency in the demonstration termination process, and require an evaluation from the DOL with cooperation by the States. Additionally, this legislation furthers extends the deadline for waiver applications to 2019.

It is critical that we reduce the unnecessary Washington red tape that continues to stand in the way of job growth in Ohio's 16th district and throughout the country. A good place to start is by working with states to make unemployment programs more effective for both job seekers and job creators. Encouraging job creation is not a partisan issue, Democrats and Republicans alike agree we must advance policies that will fuel the economic recovery we so desperately need. I fully expect that my colleagues on both sides of the aisle will support the Flexibility to Promote Reemployment Act, and I look forward to seeing this bipartisan, commonsense legislation swiftly move through the legislative process.

Chairman BOUSTANY. Next, we will go to Congresswoman DeLauro.

You may proceed.

STATEMENT OF THE HONORABLE ROSA DELAURO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Ms. DELAURO. Thank you very much, Mr. Chairman. It is a pleasure to join with you and Ranking Member Doggett and the distinguished members of the Ways and Means Committee, all of whom are colleagues on this panel as well this morning.

I thank you for inviting me to testify about two of the most important programs in our social safety net, Supplemental Security Income and Unemployment Insurance.

We must not lose sight of the people these programs are there to help. Millions of American families rely on them every day to make ends meet, and they make a real difference.

SSI supports low-income seniors and people living with disabilities, including families who need extra help to raise a disabled child. For a great many people, SSI is a critical piece that helps them to live their lives day to day.

UI helps workers who lose their job through no fault of their own to continue putting food on the table, paying their bills, and raising their families. And despite an improving economy, millions of Americans still need that support to get through a tough period in their lives.

Both programs help the economy as recipients spend their benefits on the necessities of life. I hope and I know we can agree that these benefits should always be there for struggling families who need them. Eliminating fraud and abuse is a critical part of keeping these programs strong for the vast majority of recipients whose need is all too genuine.

Clearly, those who break the law should be prosecuted, and we all agree to that. However, as the ranking member on the Labor, HHS, Education Appropriations Subcommittee, I must highlight the damage years of budget cuts have done, including to the very programs that are designed to root out fraud and abuse.

At the Department of Labor, the Labor, HHS, Education bill funds activities known as, quote, "reemployment eligibility assessment and reemployment services," or REARES. These programs help beneficiaries to access reemployment services, but they also identify and remove individuals who are not eligible for UI. In this way, every dollar invested in REARES saves the UI system an estimated $3 to $4 in benefits.

In the 2010 budget resolution, we provided a $50 million cap adjustment for these anti-fraud activities. It is estimated by OMB to have saved more than $200 million in State UI funds. Unfortunately, American taxpayers no longer recoup all of those savings because the Budget Control Act eliminated the cap adjustment.

So my first suggestion to this committee is to convince our colleagues on the Budget Committee to reinstate the cap adjustment and then to double it. If we do that, we can save taxpayers $400 million each year, $4 billion over the next decade.

And the Social Security Administration, which oversees SSI, the Labor, HHS, Education bill, funds two program integrity initiatives: continuing disability reviews, known as CDRs, and SSI redeterminations. For every $1 invested, SSI redeterminations save about $4. CDRs save around $15.

In the 2015 budget, the President asked for more than $1.7 billion for these cost-cutting initiatives. Because of the years of underfunding of SSA's operating budget, the subcommittee had to cut the request by $211 million, another casualty of budget austerity. As a result, taxpayers are missing out on a potential savings of more than $2 billion.

My second suggestion to the committee is to increase the allocation for Labor, HHS appropriations bill so we can fully fund the President's request. Some of my colleagues may think the solution is to take more funds from SSA's operating budget. That would be a mistake. SSA's operating budget has already been cut by more than $1.2 billion in real terms since 2010. SSA has lost 11,000 staff between 2010–2013, has closed at least 64 field offices in the last 5 years.

You need to talk to seniors in your district to think about what these closures mean. People are forced to spend seven times as long on the phone to reach an SSA agent. Five times as many callers are faced with a busy signal. The average wait for a disability hearing decision is now more than 15 months.

We cannot expect SSA to do more with less. It can only do less with less. I agree that fraud and abuse needs to be stamped out, but we need to not slash the SSA's operating budget to do it.

I would leave you with this: The allocation—I know it is not in the purview of the Ways and Means Committee—is $3.7 billion lower than it was for 2015. That means less for the Department of Labor, less for SSA.

I believe it is the wrong direction. And what we can do is we can prevent errors and, at the same time, root out fraud and abuse, but without hurting hard-working Americans and the services that they have earned.

So I ask you to keep those programs in mind as you move forward. The programs are too important to be allowed to wither. We need to root out that fraud and abuse. We do not need to do it in a way that undermines these programs for millions of families who support them.

Thank you for the opportunity to be here this morning.

Chairman BOUSTANY. We thank you for your testimony.

[The prepared statement of Congresswoman DeLauro follows:]

REMARKS OF THE HON. ROSA DELAURO
WAYS & MEANS HEARING ON UI & SSI
1100 LONGWORTH HOB
WEDNESDAY, JUNE 3RD, 2015

Good morning Chairman Boustany, Ranking Member Doggett, and distinguished Members of the Ways and Means Committee. Thank you for inviting me to testify about two of the most important programs in our social safety net – Supplemental Security Income and Unemployment Insurance.

We must not lose sight of the people these programs are there to help. Millions of American families rely on them every day to make ends meet. And they make a real difference.

SSI supports low-income seniors and people living with disabilities – including families who need extra help to raise a disabled child. For a great many people, SSI is critical to helping them live day to day. UI helps workers who lose their jobs through no fault of their own to continue putting food on the table, paying their bills, and raising their families. Despite an improving economy, millions of Americans still need that support to get through a tough period in their lives.

Both programs help the economy as recipients spend their benefits on the necessities of life.

I hope and know we can agree that these benefits should always be there for struggling families who need them. Eliminating fraud and abuse is a critical part of keeping these programs strong for the vast majority of recipients whose need is all too genuine.

Clearly, those who break the law should be prosecuted. We all agree. However, as Ranking Member on the Labor-HHS-Education appropriations subcommittee, I must highlight the damage years of budget cuts have done – including to the very programs designed to root out fraud and abuse.

At the Department of Labor, the Labor-HHS-Education bill funds activities known as "reemployment eligibility assessments" and "reemployment services," or REA/RES.

These programs help beneficiaries access reemployment services. They also identify and remove individuals who are not eligible for UI. In this way, every dollar invested in REA/RES saves the UI system an estimated $3 to $4 in benefits.

In the FY 2010 Budget Resolution, we provided a $50 million cap adjustment for these anti-fraud activities.

It is estimated to have saved more than $200 million in State UI funds. Unfortunately, American taxpayers no longer recoup all of those savings, because the Budget Control Act eliminated the cap adjustment.

So my first suggestion to this Committee is to convince our colleagues on the Budget Committee to reinstate the cap adjustment – and then double it. If we do that, we can save taxpayers $400 million each year – $4 billion over the next decade.

In the Social Security Administration, which oversees SSI, the Labor-HHS-Education bill funds two program integrity initiatives: Continuing Disability Reviews (known as CDRs) and SSI Redeterminations. For every dollar invested, SSI Redeterminations save about $4, while CDRs save around $15.

In 2015, the President's budget asked for more than $1.7 billion for these cost-saving initiatives.

Because of years of underfunding of the SSA's operating budget the subcommittee had to cut the request by $211 million – yet another casualty of budget austerity.

As a result, taxpayers are missing out on potential savings of more than $2 billion. So my second suggestion to the committee is to support a higher allocation for the Labor-HHS-Education appropriations bill so we can fully fund the President's request.

Some of my colleagues may think the solution is to take even more funds from SSA's operating budget. That would be a mistake. SSA's basic operating budget has already been cut by more than $1.2 billion in real terms since 2010. As a result, SSA lost 11,000 staff between 2010 and 2013, and has closed at least 64 field offices in the last five years. Talk to some seniors in your districts to see what they think of these closures.

People are forced to spend seven times as long on the phone to reach an SSA agent. Five times as many callers are faced with a busy signal. The average wait for a disability hearing decision is now more than 15 months. We cannot expect SSA to do more with less. It can only do less with less.

So while I agree that fraud and abuse needs to be stamped out, I will not support slashing SSA's operating budget to do it.

Unfortunately, the Majority now proposes to cut the allocation for Labor-HHS-Education by a further $3.7 billion in 2016, leaving even less for the Department of Labor and SSA. This is the wrong direction. The cuts of the last five years are forcing agencies to choose between preventing errors and providing hard-working Americans with services they have earned. That is an unacceptable dilemma.

I ask the Members of this committee to remember the need to fund both SSA's operating budget and the existing program integrity initiatives. As I have outlined, those initiatives have the potential to save billions of taxpayer dollars.

These programs are too important to be allowed to wither. Yes, we must root out fraud and abuse. But we must not do it in a way that undermines these programs for the millions of families who really need them.

Thank you once again for the opportunity to contribute to this important discussion.

Chairman BOUSTANY. I want to at this point thank all the members for the great work you have done in this area and for your testimony and appearing before the committee today.

At this point we will refrain from questions. We know we can talk to you on the House floor or whenever to further discuss these items. So at this point we thank you.

And we will call up our second panel.

Ms. DELAURO. Thank you.

Chairman BOUSTANY. We are very pleased to welcome our next panel. This is a very distinguished panel who I believe will lend tremendous expertise to the discussion of this topic and potential pathways forward.

First, we will be hearing from Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration.

Welcome.

Next, Dan Bertoni, Director, Education, Workforce, and Income Security issues, from the Government Accountability Office.

Thirdly, Mr. Curt Eysink, from my home State of Louisiana, where he serves as Executive Director of the Louisiana Workforce Commission. He will bring a State perspective to this.

Fourth, we have Debra Rohlman, Vice President of Government Sales, Equifax Workforce Solutions, considerable private sector expertise.

Last, but certainly not least, Rebecca Vallas, Director of Policy, Poverty to Prosperity Program, Center for American Progress.

We welcome all of you. This will be a good, lively debate and discussion. We appreciate the expertise that you all bring to this.

So, with that, we will start with you, Mr. O'Carroll.

I would ask each of you to try to adhere to the 5-minute rule for your oral testimony. As I said earlier, your written testimony will be made a part of the record in total.

So, Mr. O'Carroll, you may proceed.

STATEMENT OF PATRICK P. O'CARROLL, JR., INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION

Mr. O'CARROLL. Good morning, Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee. Thank you for the invitation to testify.

Last September, police in Richmond, Virginia, issued an arrest warrant for a man who had committed serious crimes. The suspect was wanted for, amongst other crimes, carjacking, using a firearm to commit a felony, and malicious wounding. Within weeks, a U.S. Marshal's fugitive task force, along with OIG special agents, located and arrested the man in Virginia.

Because this fugitive received SSI payments, the task force found him with an assist of our Fugitive Enforcement Program. Through information sharing and collaboration with law enforcement agencies across the country, this program has helped bring thousands of fugitives to justice.

In the past, SSA would have suspended this fugitive's SSI payments based on the felony arrest warrant from Richmond. But since he was wanted for carjacking rather than for fleeing justice, SSA could not take action to stop his payments until he was behind bars.

For many years, we have worked with local law enforcement to locate fugitive felons and help SSA cut off their payments. However, since 2009, two court decisions have dramatically limited SSA's ability to stop these payments. I discuss these decisions further in my written testimony, but they essentially stopped SSA from suspending payments unless someone is wanted specifically for flight or escape.

As I said, the effect has been dramatic. In 2009, SSA suspended benefits for more than 58,000 individuals. In 2014, after the court decisions, SSA suspended benefits for 830 individuals. The court decisions did not affect our ability to share locator information with law enforcement. And we continue to help those agencies in their efforts to apprehend fugitives.

Your subcommittee, with support from the Subcommittee on Social Security, recently introduced the Control Unlawful Fugitive Felons Act. This law would again discontinue payments to individuals who are the subject of an outstanding felony arrest warrant.

The Social Security Act also prohibits payments to prisoners, and we have a long history of overseeing and improving the agency's efforts in this area. Some of our earliest audit work recommended that SSA improve collection of prisoner information and pursue agreements to obtain this information.

Because of our work, SSA now has agreements to obtain prisoner data from 50 States, the Federal Bureau of Prisons, and thousands of local corrections facilities. SSA matches this inmate data against its payment records every month to make sure that prisoners don't receive a check. SSA estimates that it suspends benefits to about 60,000 prisoners each year, saving about $500 million per year. This success story is a good example of the potential that data matches for ensuring that SSA payment accuracy.

For many years, my office has recommended these matches to SSA. For example, we work with Homeland Security to match Customs travel data to SSA records, an estimated $150 million in overpayments to SSI recipients based on their absence from the United States for more than 30 days.

And as your subcommittee knows, we recently reviewed SSA's process for removing self-employment earnings from SSI recipient records and notifying the IRS of this discrepancy. We recommended that SSA work with the IRS to identify earned income tax credit fraud.

Unfortunately, we in SSA are limited in our ability to secure data matches under the Computer Matching and Privacy Protection Act. We have proposed an exemption from the CMPPA only for data matches intended to identify fraud and waste. One current House proposal, the Inspector General Empowerment Act, includes this exemption.

In conclusion, SSI payment accuracy is a high priority for my office. The program is a critical safety net for the most vulnerable citizens in our society. We must also not forget that we are accountable to the taxpayers who fund this program to ensure that only those who are eligible can receive these payments.

I appreciate your interest in improving the integrity of the SSI program. We look forward to collaborating with your subcommittee

on the best ways to do this effectively. Thank you again for the invitation to testify, and I will be happy to answer any questions.

Chairman BOUSTANY. Thank you very much, Mr. O'Carroll.

[The prepared statement of Mr. O'Carroll follows:]

United States House of Representatives

Committee on Ways and Means
Subcommittee on Human Resources

SOCIAL SECURITY ADMINISTRATION

OIG

Statement for the Record

Protecting the Safety Net from Fraud, Waste, and Abuse

The Honorable Patrick P. O'Carroll, Jr.
Inspector General, Social Security Administration

June 3, 2015

Good morning, Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee. Thank you for the invitation to testify today, to discuss efforts to protect government assistance programs from fraud, waste, and abuse, such as the Social Security Administration's (SSA) Supplemental Security Income (SSI) program and the Department of Labor's (DoL) Unemployment Insurance (UI) program. My office oversees SSA's management of the SSI program, so I appreciate your interest in ensuring payments are preserved for those who are eligible. We are pleased to collaborate with you on ways to improve program integrity.

The SSI Program

SSI is a nationwide Federal assistance program that guarantees a minimum level of income for needy aged or disabled individuals. General tax revenues, not Social Security taxes, fund the SSI program, which allows individuals to meet basic needs like food, shelter, and clothing. According to SSA, in fiscal year (FY) 2014, the Agency made $50.8 billion in SSI payments to about 8.4 million recipients.

Because SSI is needs-based and means-tested, many non-medical factors can affect SSI eligibility and payment amounts; for example, income, resources, living arrangements, citizenship, and requirements to file for other program benefits. The SSI program requires that SSA periodically re-assess individual's eligibility and payment amounts based on these non-medical factors. Except for certain confined individuals, all SSI recipients are periodically scheduled for a redetermination. Every year, SSA schedules for redetermination the cases most likely to have a payment error; but even cases unlikely to have payment errors are scheduled for review at least once every six years. In addition, the Agency conducts unscheduled redeterminations as needed when recipients report, or SSA discovers, certain changes in circumstances that could affect SSI eligibility or payment amount.

SSA has processes in place to detect situations that have the potential to affect SSI eligibility or payment amount. SSA conducts periodic computer matches between its own systems and those of other Federal and State agencies to determine if the information on SSI recipients' records conflicts with data obtained from other systems.

SSA's process of ensuring SSI payment accuracy also relies in part on individuals reporting changes in their income, resources, and/or living arrangements. Unfortunately, SSI recipients do not always accurately report these changes. For this reason, the Agency's greatest payment accuracy challenge is SSI overpayments. For FY2014—the most recent reporting year—SSA reported $5.1 billion in SSI improper payments, including $4.2 billion in overpayments.

Still, SSA continues to make significant efforts and dedicate resources to improve SSI payment accuracy. Over the years, the OIG has made many recommendations to limit SSI overpayments and to reduce fraud, waste, and abuse in the SSI program. One area of particular interest to your Subcommittee, is limiting SSI payments to incarcerated individuals and fugitives.

Stopping Payments to Prisoners

The *Social Security Act* prohibits SSI payments to individuals confined in a public institution. Specifically, SSA suspends SSI payments if a person is in prison for 30 consecutive days; payments can be reinstated in the month the person is released, but if confinement lasts for 12 consecutive months or longer, SSI eligibility is terminated, and the person must file a new claim.

Some of our earliest audit work examined whether SSA adequately obtained complete and timely information to determine if prisoners in Federal, State, or local corrections facilities collected retirement and/or disability benefits while incarcerated. We made several recommendations to SSA to improve procedures for obtaining prisoner information, including instituting agreements with corrections agencies to obtain information on all prisoners; and seeking an exemption to the *Computer Matching and Privacy Protection Act of 1988* (CMPPA) for prisoner-related data matches.

Because of our work, SSA undertook a major initiative to obtain prisoner data from all State and local corrections departments, and pursued legislation to improve the cost-effectiveness of prisoner data matching. The *Personal Responsibility and Work Opportunity Reconciliation Act of 1996* eliminated the need to for SSA to enter into CMPPA agreements for prisoner matches; SSA has agreements to obtain prisoner data from all 50 States, the District of Columbia, the Federal Bureau of Prisons, and thousands of local facilities.

The CMPPA exemption for prisoner matches, and SSA's efforts to increase the number of matching agreements, has resulted in significant savings for SSA programs. Today, SSA receives prisoner data from corrections facilities monthly, and matches that data against the Agency's Old-Age, Survivors, and Disability Insurance (OASDI) and SSI records, halting payments to prisoners. SSA estimates that this results in the suspension of benefits to about 60,000 prisoners each year, saving about $500 million annually.

We continue to review SSA's efforts to stop payments to prisoners.

- The *Social Security Act* allows SSA to provide incentive payments to State and local correctional facilities that provide inmate data to SSA.[1] The incentive payment provisions were established to encourage the reporting of inmate data that allows SSA to timely suspend payments to prisoners.

  We review the accuracy of these incentive payments every few years. In a recent report, we estimated that from June 2008 through February 2014, SSA incorrectly issued about 128,500 incentive payments totaling about $35 million.[2] SSA agreed with our recommendations to modify its process and system to pay incentive payments, and to reinforce established procedures to identify incarcerated individuals and recoup erroneous incentive payments.

- We reviewed SSA's processing of "Special Disability Workload" (SDW) cases to identify cases where individuals incorrectly received Disability Insurance (DI) benefits for periods when they were confined in correctional institutions. SDW cases were those identified by SSA in which SSI recipients prior to 2000 had become eligible for DI benefits but were not receiving them; the Agency retroactively resolved these cases, but did not always adjust back payments to account for past periods of incarceration. We estimated SSA overpaid about $1 million to beneficiaries with periods of conviction and incarceration. SSA agreed to review the cases of beneficiaries

[1] Incentive payments are authorized in the following amounts: $400 for information received within 30 days after confinement due to conviction for an OASDI beneficiary or confinement for an SSI recipient, or $200 for information received after 30 days but within 90 days after confinement due to conviction for an OASDI beneficiary or confinement for an SSI recipient.

[2] SSA OIG, *The Social Security Administration's Prisoner Incentive Payment Program*, December 2014.

who received payments while incarcerated and collect any overpayments; and to review the accuracy of payments made to about 1,660 individuals in its SDW with a criminal history.[3]

Fugitive Enforcement
In addition to prohibiting Social Security payments to prisoners, the *Social Security Act* prohibits payments to people who are:

- fleeing to avoid prosecution for a felony;
- fleeing to avoid custody or confinement after conviction for a crime which is a felony; or
- violating a condition of probation or parole imposed under Federal or state law.

Through our Fugitive Enforcement Program, we work with law enforcement agencies around the country to identify and locate fugitives, and, when possible, see that their Social Security benefits are suspended. Law enforcement agencies provide information to the OIG on people who have outstanding felony arrest warrants or who are violating conditions of probation or parole; SSA compares the information to its files of people receiving Social Security payments and/or serving as representative payees. If there is a match, the OIG works with law enforcement to attempt to locate the person and refers to SSA cases for suspension of benefits or removal of representative payee status.

In recent years, two court decisions have altered SSA's policy related to suspending payments to fugitives or people with parole or probation violations.

- *Martinez v. Astrue* challenged SSA's policy of basing payment suspension solely on the existence of an outstanding arrest warrant, rather than developing information to ensure the individual was "fleeing" from authorities. In September 2009, the U.S. District Court of Northern California approved a nationwide class-action settlement, which limited the types of felony arrest warrants that, on their face, prohibit Social Security payments. Under the *Martinez* settlement, for SSA to suspend benefits, a person's felony warrant must be for one of three specific offenses: escape, flight to avoid prosecution, or flight-escape.

- *Clark v. Astrue*, similarly, challenged SSA's policy of basing payment suspension based only on the existence of a warrant alleging a violation of probation or parole, rather than developing information to ensure law enforcement was actively pursuing the individual. In April 2012, a settlement was reached in this lawsuit, whereby a U.S. District Court in New York issued an order preventing SSA from suspending or denying payments based only on probation or parole arrest warrant information. SSA has applied this order nationwide.

Since 2009, our auditors have reviewed SSA's efforts to address the *Martinez* settlement, and they plan to review the effect of the *Clark* court order this year.

The court decisions have significantly limited SSA's ability to suspend benefits.

- In FY2009, before the *Martinez* settlement, as a result of the OIG's fugitive enforcement efforts, SSA suspended benefits for more than 58,000 individuals and identified $440 million in overpayments, including $165 million in SSI overpayments.

[3] SSA OIG, *Special Disability Workload Payments Made to Incarcerated Beneficiaries*, October 2013.

- In FY2014, with *Martinez* and *Clark* in place, SSA suspended benefits for 830 individuals and identified almost $3 million in overpayments, including $1.5 million in SSI overpayments, as a result of OIG fugitive enforcement efforts.

Your Subcommittee, however, with support from the Subcommittee on Social Security, recently introduced legislation that would prohibit felons with outstanding arrest warrants from receiving SSA payments. The *Control Unlawful Fugitive Felon Act of 2015* (CUFF Act) would discontinue payments to individuals who are the subject of an arrest warrant. The legislation only applies to felony charges, or a crime carrying a minimum term of one or more years in prison; SSA would also have to provide notice to the individual before suspending payments, and payments can be restored after the individual resolves his/her outstanding issues. The legislation also has a "good cause" provision that allows the Commissioner discretion in certain circumstances to not suspend payments.

Should a new fugitive bill pass, we estimate that our fugitive workload would increase to beyond pre-*Martinez* levels, and SSA could potentially stop hundreds of millions of dollars in payments to individuals with felony warrants.

SSI Program Integrity

Additionally, we have done significant work and made many recommendations to SSA that support our primary focus on program integrity. SSA is not required to complete a given number of SSI redeterminations each year, but we continually encourage the Agency to prioritize resources to increase the overall number and frequency of redeterminations conducted. Since 2009, SSA has received dedicated program integrity funding to complete integrity reviews; in FY2008, SSA conducted about 900,000 redeterminations (12 percent of SSI recipients), but that number increased to 2.4 million redetermination (29 percent of recipients) in FY2013.[4] SSA conducted 2.6 million redeterminations in FY2014 and planned to meet that level in FY2015 and 2016. The Agency estimates that it will save $4 for every $1 spent on redeterminations over the next two years.

We have long encouraged SSA to review non-governmental databases and pursue data matches with other Federal agencies to improve SSI payment accuracy. SSA receives data from the IRS to verify income, and in 2011, the Agency completed the national rollout of the Access to Financial Institutions (AFI) initiative, which allows SSA to access financial institutions' data to verify an applicant or recipient's self-reported resources. SSA estimates that annual account verifications completed through AFI yield hundreds of millions of dollars in lifetime SSI program savings.

SSI recipients may also conceal non-liquid assets that affect eligibility, such as real property or vehicles. For example, we previously matched a sample of SSI recipient records against a real property database and estimated that about 320,000 recipients inaccurately reported to SSA that they did not own real property other than their primary residence, which led to improper payments of more than $2.2 billion.[5] SSA plans to expand its use of third-party databases to identify undisclosed real property in SSI initial claims and high-error profile redeterminations; the Agency is targeting implementation by FY2017.

[4] SSA OIG, *The Social Security Administration's Completion of Program Integrity Workloads*, August 2014.

[5] SSA OIG, *Supplemental Security Income Recipients with Unreported Real Property*, June 2011.

We have also shown how SSA could employ data matches and install processes with other government agencies to reduce improper SSI payments.

- Our auditors worked with DoL to compare its Office of Workers' Compensation Programs data to SSA records. We identified Federal employees who received disability benefits in the same year they received Federal Employee's Compensation Act (FECA) payments, and we estimated $43 million in improper payments to about 960 beneficiaries for whom SSA did not consider FECA payments in calculating their benefits.[6]

- After matching Department of Homeland Security travel data to SSA records, we estimated SSA made about $152 million in overpayments to SSI recipients because of unreported absences from the United States between September 2009 and August 2011.[7] SSI recipients are ineligible when outside the country for more than 30 consecutive days.

- As your Subcommittee knows, we recently reviewed SSA's removal or suspension of self-employment income (SEI) from its main earnings record and subsequent notifications to the IRS; some SSI recipients have reportedly claimed SEI on their tax returns to obtain an Earned Income Tax Credit (EITC), but have later disclaimed the SEI to SSA to prevent a reduction in their SSI payments. From 2008 through 2011, we found SSA suspended about $400 million in SEI and did not notify the IRS of these actions; the Treasury Inspector General for Tax Administration reviewed a sample of these cases and verified that an individual claimed EITC in 77 percent of the cases when SSA suspended the person's SEI. These transactions likely involved improper EITC or Social Security payments; SSA agreed to notify the IRS in all cases where SSA removes SEI from a person's record.[8]

I mentioned the CUFF Act; other legislative proposals under consideration would also help combat SSI fraud and abuse. The IG community would benefit from exemptions to the CMPPA, which would exempt OIGs from obtaining a formal matching agreement before matching data with other entities to identify fraud and waste, and the *Paperwork Reduction Act* (PRA) for general investigations or audits. The requirements of both provisions unreasonably delay our audit and investigative efforts; the Oversight and Government Reform Committee has included IG exemptions to both the CMPPA and the PRA in the *Inspector General Empowerment Act*.

And your Subcommittee, again working in coordination with the Subcommittee on Social Security, recently introduced the *Disability Fraud Reduction and Unethical Deception (FRAUD) Prevention Act*, which would implement new and stronger penalties for individuals and claimant representatives who conspire to commit disability fraud.

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[6] SSA OIG, *Federal Employees Receiving Both Federal Employees' Compensation Act and Disability Insurance Payments*, October 2010

[7] SSA OIG, *Usefulness of Department of Homeland Security Travel Data to Identify Supplemental Security Income Recipients Who Are Outside the United States*, February 2013.

[8] SSA OIG, *Self-employment Earnings Removed from the Master Earnings File*, January 2015.

Finally, SSA has reported to us that it is proposing to implement several new initiatives that we believe have the potential to improve SSI program integrity, such as

- conducting data matches with private databases to verify SSI recipients' wages and automatically adjust payment amounts;
- holding third-party facilitators liable for overpayments assessed against recipients who are later declared ineligible due to fraud; and
- using Customs and Border Protection data to prevent improper payments by identifying SSI recipients who travel outside the United States for more than 30 days but do not report it to SSA.

All of these initiatives are discussed in further detail in SSA's FY2016 budget request.

Conclusion

It is critical that SSA ensure that all SSI payments are correct and timely, because the individuals who qualify for SSI depend on those payments every day for basic necessities. It is equally important to protect the integrity of taxpayer dollars and ensure that only those who are eligible for SSI receive payments.

SSA and the OIG have done significant work to identify areas where the SSI program can be vulnerable to improper payments; with a focus on preventing payments to prisoners and fugitive felons, as mandated by current laws and the *Martinez* settlement and *Clark* court order.

Finally, my office continues to stress the importance of stewardship reviews like redeterminations—and as I have outlined, we have made many recommendations to the Agency specific to the non-medical factors that can affect SSI eligibility, with an emphasis on utilizing data matches and electronic public records.

We will continue to provide information about these issues to your Subcommittee and to Agency decision-makers. Thank you again for the invitation to testify, and I am happy to answer any questions.

Chairman BOUSTANY. Mr. Bertoni, you may proceed.

STATEMENT OF DANIEL BERTONI, DIRECTOR, EDUCATION, WORKFORCE, AND INCOME SECURITY ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. BERTONI. Thank you, Mr. Chairman, Ranking Member Doggett, Members of the Subcommittee. Good morning.

I am pleased to discuss our work in the Supplemental Security Income program and issues affecting program integrity which, left unchecked, increase the potential for waste, fraud, and abuse.

Last year, SSA paid almost $56 billion to over 8 million SSI recipients. Given the size of the program, even small errors in benefit payments can result in substantial loss to taxpayers.

My statement is based on a body of work conducted over several years and describes SSA's challenges with ensuring SSI program integrity.

In summary, the agency faces real challenges in preventing and detecting overpayment. To ensure that only eligible individuals receive benefits, follow-up reviews after benefits are granted provide an important check on growth and are key to program integrity.

Federal law requires that SSA conduct periodic continuing disability reviews, or CDRs, to determine whether recipients have medically improved and to cease benefits as appropriate. However, last year SSA reported a backlog of 1.3 million reviews.

Moreover, we found that adult reviews declined by 70 percent. Those for children with mental impairments fell by 80 percent. We also noted that 435,000 child cases with mental impairments were overdue a CDR, oftentimes for many years, including thousands originally deemed likely to medically improve within 12 to 18 months.

We recommended that SSA address this backlog and calculated the agency would save $3 billion over 5 years as a result. Since the report was issued, the agency has increased the number of child CDRs conducted annually and plans to eliminate the backlog. However, it is unclear whether it will continue to use any new funding increases to review children most likely to medically improve.

Beyond untimely reviews, overpayments can also occur when recipient bank account and wage information is incomplete or outdated. The unreported value of bank accounts and wages represent nearly 40 percent of all SSI overpayments.

While the agency has developed tools to better capture banking and wage information, there are limitations. For example, the agency now has electronic access to recipient banking data. It can query this information when determining benefit eligibility. However, this data is not entirely complete, and staff rely on recipients to self-report such accounts and the amounts of funds in them.

SSA also uses telephone wage reporting to capture recipient wage information to adjust benefits to prevent improper payments. However, the accuracy of this information is also limited due to recipient self-reporting and SSA's inability to process wage information for those with multiple employers.

Beyond prevention, the agency has also had difficulties with overpayment recovery and management of its waiver process. Generally, recipients must repay overpaid benefits, but can request a

waiver under certain circumstances. SSA approves about 76 percent of all waiver requests. And documentation and management oversight is limited.

Specifically, we found that staff can approve waiver requests of $2,000 or less without any supervisory approval. We recommended that SSA review this policy and amend it to improve program integrity. The agency agreed with our recommendation, but has not taken action, despite a 2015 internal study that showed 50 percent of such waiver decisions were incorrect.

To improve oversight, we also recommended that SSA study waiver activity to identify patterns specific to its regions, field offices, and even individual staff. Unfortunately, the agency declined to conduct such analyses and will continue to be limited in its efforts to recover overpaid taxpayer dollars.

Finally, I would be remiss in not stating that SSI program complexity has been a longstanding challenge, contributing to high administrative costs and risk of overpayments. Beyond documenting income and resources, staff must also apply a complex set of rules to assess recipients' living arrangements and other financial support received.

In prior work, we have cited program complexity as a major driver of payment errors, program abuse, and excessive administrative costs. In light of this longstanding issue, we have begun work for this subcommittee, examining potential options and barriers to streamline policies for calculating recipient benefits.

As we proceed, we will continue to work closely with you in your efforts to enhance the design and integrity of the SSI program.

Mr. Chairman, this concludes my remarks. I am happy to answer any questions that you may have. Thank you.

Chairman BOUSTANY. Thank you, Mr. Bertoni.

[The prepared statement of Mr. Bertoni follows:]

United States Government Accountability Office

GAO

Testimony

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SUPPLEMENTAL SECURITY INCOME

An Overview of Program Integrity and Management Challenges

Statement of Daniel Bertoni, Director
Education, Workforce, and Income Security

GAO-15-632T

GAO Highlights

Highlights of GAO-15-632T, a testimony before the Subcommittee on Human Resources, Committee on Ways and Means, House of Representatives

June 2015

SUPPLEMENTAL SECURITY INCOME

An Overview of Program Integrity and Management Challenges

Why GAO Did This Study

The SSI program, administered by SSA, provides cash assistance to eligible aged, blind, and disabled individuals with limited financial means. In fiscal year 2014, the program paid nearly $56 billion in federally funded benefits to about 8.2 million individuals. The program has grown substantially in recent years, and is expected to grow more in the near future. SSA has a stewardship responsibility to guard against improper payments and to address program integrity issues that if left unchecked could increase the potential for waste, fraud, and abuse. SSA estimated that it made $5.1 billion in improper payments in fiscal year 2014. In addition, SSA's management concerns are wide ranging and include ensuring its workforce is able to meet service delivery needs.

In this statement, GAO describes SSA's challenges with 1) ensuring SSI program integrity and 2) managing the program. This testimony is primarily based on GAO products issued from 2002 to 2015, which used multiple methodologies, including analyses of SSI administrative data from fiscal years 2000 to 2011, reviews of relevant federal laws, regulations, and guidance, and interviews of SSA officials. In May 2015, GAO obtained current data on improper payments and updates from SSA reports and guidance on actions taken to address GAO's past recommendations.

What GAO Recommends

GAO has previously made recommendations to help SSA strengthen its program oversight and address management challenges. In response, the agency has taken some steps and plans to do more.

View GAO-15-632T. For more information contact Daniel Bertoni at (202) 512-7215 or bertonid@gao.gov

What GAO Found

The Social Security Administration (SSA) faces challenges with ensuring the integrity of the Supplemental Security Income (SSI) program's processes for preventing, detecting, and recovering overpayments. For example, SSA is required in certain circumstances to periodically review SSI recipients' medical and financial eligibility, yet the lack of timely reviews and difficulty getting complete financial information hinder SSA's ability to prevent and detect overpayments to recipients. SSA estimated that $4.2 billion of the payments it administered to SSI recipients in fiscal year 2013 were overpayments. In June 2012, GAO found that SSA had accumulated a substantial backlog of recipients' medical eligibility reviews, including for over 23,000 children with mental impairments who were deemed likely to medically improve when initially determined eligible for benefits. GAO recommended that SSA eliminate its backlog for these children and conduct timely reviews going forward, estimating based on fiscal year 2011 data that these actions could save more than $3.1 billion over 5 years by preventing related overpayments. SSA recently reported that it has increased the number of medical eligibility reviews conducted for SSI children in each year since 2012, completing nearly 90,000 reviews in fiscal year 2014—in contrast to the 25,000 reviews completed in fiscal year 2011—and plans to continue these efforts. In December 2012, GAO also reported that a lack of comprehensive, timely information on SSI recipients' financial accounts and wages led to overpayments. GAO noted that SSA had recently developed electronic tools to address these issues, and SSA reported that the agency is gaining experience using them. However, despite these efforts, in May 2015, the SSA Office of the Inspector General found that overpayments associated with financial account information have increased in recent years and recommended SSA continue researching initiatives that will help to reduce improper payments in the SSI program. SSA agreed to this recommendation.

SSA faces several management challenges in administering SSI related to workload, service delivery, and program complexity. In 2013, GAO reported that as a result of an ongoing retirement wave, SSA faced a loss of institutional knowledge and expertise, which may result in increased review backlogs and improper payments. GAO recommended that SSA update its succession plan, in line with federal internal controls guidance that states that management should plan for succession and ensure continuity of needed skills and abilities. In response, SSA published a human capital document detailing its succession plans. Federal internal controls guidance also states that agencies should comprehensively identify and manage risks, and GAO also recommended SSA develop a long-term service delivery plan to determine, among other things, how SSA will address both program integrity and other workloads. In response, SSA published an April 2015 description of its vision for future service delivery and indicated it plans to develop a strategy for achieving this vision moving forward. SSA also noted the importance of simplifying its policies and procedures to meet its service delivery goals and SSA has plans to do so. Program complexity is a long-standing challenge that contributes to administrative expenses and potential overpayments. GAO is beginning work for this subcommittee related to how benefit amounts are calculated for multiple SSI recipient households, an area that SSA has considered for program simplification.

Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee:

I am pleased to be here today to discuss our work on the Supplemental Security Income (SSI) program, including issues affecting program integrity—which left unchecked, increase the potential for waste, fraud, and abuse. As you know, the Social Security Administration's (SSA) SSI program provides cash assistance for eligible aged, blind, and disabled individuals with limited financial means. In fiscal year 2014, the SSI program paid almost $56 billion in federally funded benefits to about 8.2 million individuals. The program has grown substantially in recent years, and is expected to grow more in the near future, in part because of population growth. SSA's strategic goals and objectives for fiscal year 2015 reflect a wide range of management concerns, ranging from ensuring that SSA has a workforce with the competence and agility to address service demands to creating new opportunities for individuals with disabilities to return to work. SSA also has a stewardship responsibility to guard against improper payments. Given the size of the SSI program, even small errors in benefit payments can result in a significant loss of taxpayer dollars.

My testimony—based primarily on reports we issued from 2002 to 2015[1]—describes SSA's challenges with (1) ensuring SSI program integrity and (2) managing the program. We used multiple methodologies

[1]This statement is also based on a review of current related data on improper payments and updates on actions taken to address past GAO recommendations obtained from reviewing SSA reports and guidance in May 2015. Reports are cited throughout and include GAO, *Supplemental Security Income: Progress Made in Detecting and Recovering Overpayments, but Management Attention Should Continue*, GAO-02-849 (Washington, D.C.: Sept. 16, 2002); *Social Security Disability: Ticket to Work Participation Has Increased, but Additional Oversight Needed*, GAO-11-324 (Washington, D.C.: May 6, 2011); *Modernizing SSA Disability Programs: Progress Made, but Key Efforts Warrant More Management Focus*, GAO-12-420 (Washington, D.C.: June 19, 2012); *Supplemental Security Income: Better Management Oversight Needed for Children's Benefits*, GAO-12-497 (Washington, D.C.: June 26, 2012); *Supplemental Security Income: SSA Has Taken Steps to Prevent and Detect Overpayments, but Additional Actions Could Be Taken to Improve Oversight*, GAO-13-109 (Washington, D.C.: Dec. 14, 2012); *Social Security Administration: Long-Term Strategy Needed to Address Key Management Challenges*, GAO-13-459 (Washington, D.C.: May 29, 2013); *Social Security Disability Programs: SSA Could Take Steps to Improve Its Assessment of Continued Eligibility*, GAO-14-492T (Washington, D.C.: Apr. 9, 2014); *Supplemental Security Income: Wages Reported for Recipients Show Indications of Possible SSN Misuse*, GAO-14-597 (Washington, D.C.: Jul. 16, 2014); and *High-Risk Series: An Update*, GAO-15-290 (Washington, D.C.: Feb. 11, 2015).

to conduct the work for these reports. For example, we reviewed and analyzed SSI administrative data from fiscal years 2000 to 2011; reviewed relevant federal laws, regulations, and guidance; reviewed key agency documents, such as SSA's strategic plan, human capital plan, strategic leadership succession plan, and annual SSI stewardship reports; and interviewed management and staff from SSA headquarters, selected regions, and field offices. We assessed the data we received and concluded that the data were sufficiently reliable for the purposes of our reports. More information on the scope and methodology of our work is contained within our published reports.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The SSI program was established in 1972 under Title XVI of the Social Security Act and provides payments to low-income aged, blind, and disabled persons—both adults and children—who meet the financial eligibility requirements.[2] A disability is defined for adults as the inability to engage in any substantial gainful activity because of any medically determinable physical or mental impairment(s) that can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months.[3]

[2]The SSI program was established by the Social Security Amendments of 1972 and became effective in 1974. Pub. L. No. 92-603, §301, 86 Stat. 1329, 1465 (codified as amended at 42 U.S.C. § 1381-1383f).

[3]42 U.S.C. § 1382c(a)(3). Individuals under age 18 are considered disabled if they have a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. 20 C.F.R. § 416.906 (2012).

To meet financial eligibility requirements, in fiscal year 2014, an individual's or married couple's monthly countable income[4] had to be less than the monthly federal SSI benefit rate of $721 per month for an individual and $1,082 per month for a married couple. Further, countable resources (such as financial institution accounts) had to be $2,000 or less for individuals and $3,000 or less for married couples. Recipients are to report changes in their income and financial resources to SSA as soon as they occur and a penalty may be deducted from the recipient's benefit if the report is not made within 10 days after the close of the month in which they change.[5] In addition, to determine an individual's ongoing financial eligibility for SSI program payments, SSA conducts periodic "redeterminations."[6] During a redetermination, field office staff perform a variety of activities to verify recipients' income, resources, living arrangements, and other factors to determine their continued SSI program eligibility. These activities may include querying internal and external databases, checking with employers and banks, and performing interviews with recipients to obtain current information.

To ensure that only recipients who remain disabled continue to receive benefits, SSA is required to conduct periodic continuing disability reviews (CDR) in certain circumstances.[7] These reviews assess whether recipients are still eligible for benefits based on several criteria, including their current medical condition. During the CDR process, SSA applies a medical improvement standard. Under this standard, SSA may discontinue benefits for an individual if it finds substantial evidence

[4]Certain types of income are excluded under the SSI program by the Social Security Act. 42 U.S.C. § 1382a(b). For a list of types of income excluded under the SSI program as provided by federal laws other than the Social Security Act, see the appendix to 20 C.F.R. part 416, subpart K.

[5]20 C.F.R. §§ 416.708(c) and (d) and 416.714.

[6]The length of time between scheduled redeterminations varies depending on the likelihood that a recipient's situation may change in a way that affects his or her benefits. SSA may also redetermine eligibility when the agency learns of a change in the recipient's situation that affects eligibility or the benefit amount. 20 C.F.R. § 416.204(b).

[7]SSA's regulations pertaining to CDRs for SSI can be found at 20 C.F.R. § 416.989 et seq. CDRs may be conducted generally every 6 to 18 months, 3 years, or 5 to 7 years, depending on the nature of the recipient's disability. 20 C.F.R. § 416.990(d).

demonstrating both that a beneficiary's medical condition has improved[8] and that the individual is able to engage in substantial gainful activity.[9] If SSA determines that these conditions have not been met in the course of conducting a CDR, the recipient may continue to receive benefits until the individual receives a subsequent CDR (which potentially could result in a discontinuation of benefits), dies, or transitions to Social Security retirement benefits.

Multiple entities are involved in determining recipients' initial and continued eligibility. After an SSA field office determines that an SSI applicant meets the program's financial requirements, a state Disability Determination Services agency reviews the applicant's medical eligibility. Similarly, SSA field offices conduct redeterminations of recipients' financial eligibility, and state Disability Determination Services agencies assess continued medical eligibility.

Complex eligibility rules and many layers of review with multiple handoffs from one person to another make the SSI program complicated and also costly to administer. During fiscal year 2014, SSA estimated that it made $5.1 billion in improper payments in the program. As our prior work has shown, improper payments, including overpayments, may result, in part, because eligibility reviews are not conducted when scheduled, information provided to SSA is incomplete or outdated, or errors are made in applying complex program rules.

[8]The relevant regulations define medical improvement as any decrease in the medical severity of the recipient's impairment(s) since the last time SSA reviewed his or her disability favorably, based on improvements in symptoms, signs, or laboratory findings. 20 C.F.R. § 416.994(b)(1)(i).

[9]42 U.S.C. § 1382c(a)(4)(A)(i). The medical improvement standard for individuals under the age of 18 who receive SSI benefits is different. *See* 42 U.S.C. § 1382c(a)(4)(B). The law also identifies certain other circumstances under which benefits may be discontinued besides the medical improvement standard. *See* 42 U.S.C. § 1382c(a)(4)(A) and (C).

SSA Faces Program Integrity Challenges in Preventing, Detecting, and Recovering Overpayments

SSA Could Prevent Billions of Dollars in Overpayments by Conducting More Disability Reviews and Could Ensure Review Consistency by Improving Guidance

Because CDRs are a key mechanism for ensuring continued medical eligibility, when SSA does not conduct them as scheduled, program integrity is affected and the potential for overpayments increases as some recipients may receive benefits for which they are no longer eligible. SSA reported in January 2014 that it is behind schedule in assessing the continued medical eligibility of its disability program recipients[10] and has accumulated a backlog of 1.3 million CDRs. In recent years, SSA has cited resource limitations and a greater emphasis on processing other workloads as reasons for the decrease in the number of reviews conducted. From fiscal years 2000 to 2011, the number of adult and childhood CDRs fell approximately 70 percent, according to our analysis of SSA data.[11] More specifically, CDRs for children under age 18 with mental impairments—a group that comprises a growing majority of all child SSI recipients—declined by 80 percent.[12]

Children make up about 15 percent of all SSI recipients, and we reported in 2012 that CDRs for 435,000 child recipients with mental impairments were overdue, according to our analysis of SSA data.[13] Of these, nearly half had exceeded their scheduled CDR date by 3 years, and 6 percent

[10]This includes recipients of SSI, as well as Disability Insurance (DI), a cash assistance program for individuals with disabilities who have a qualifying work history.

[11]From fiscal years 2000 to 2011, the number of adult CDRs fell from more than 580,000 to about 160,000 and the number of childhood CDRs fell from more than 150,000 to about 45,000.

[12]CDRs for children under age 18 with mental impairments declined from more than 84,000 to about 16,000.

[13]GAO-12-497. A total of about 861,000 child recipients with mental impairments were receiving SSI benefits as of December 2011.

exceeded their scheduled date by 6 years.[14] Of the 24,000 childhood CDRs pending 6 years or more, we found that about 70 percent were for children who, at initial determination, SSA classified as likely to medically improve within 3 years of their initial determination. Twenty-five percent—over 6,000—of these pending CDRs were for children medically expected to improve within 6 to 18 months of their initial determination.[15] Reviews of children who are expected to medically improve are more productive than reviews of children who are not expected to improve because they have a greater likelihood of benefit cessation and thus yield higher cost savings over time. SSA officials report that the agency has placed a higher priority on conducting CDRs for populations other than SSI children that they believe will result in greater savings over time.[16] However, our analysis of SSA's data showed that SSI child claims that received a CDR in fiscal year 2011 were ceased at a higher rate than other claims.

In our June 2012 report, we recommended that SSA eliminate the existing CDR backlog of cases for children with impairments who are likely to improve and, on an ongoing basis, conduct CDRs at least every 3 years for these children. If this recommendation were implemented, SSA could potentially save $3.1 billion over 5 years by preventing

[14]Specifically, about 344,000 exceeded the scheduled date by at least a year, about 205,000 exceeded their date by 3 years, and about 24,000 exceeded the scheduled date by 6 years.

[15]In total, we found reviews for more than 23,000 children who were expected to medically improve when they were initially determined eligible for benefits that were pending for 6 years or more. We also found reviews for about 1,000 children who were not expected to medically improve when they were initially determined eligible for benefits that were pending for 6 years or more.

[16]According to SSA officials, when CDR funding is less than what is needed to conduct all CDRs at the scheduled intervals, the agency has historically given priority to (1) conducting CDRs for DI recipients, (2) performing statutorily mandated SSI age 18 and low birth weight reviews, and (3) performing reviews considered most cost-effective.

overpayments to children with mental impairments, according to our analysis of fiscal year 2011 data.[17]

SSA generally agreed that it should complete more CDRs for SSI children but emphasized that it is constrained by limited funding and competing workloads. Moving forward, one of the goals in SSA's Fiscal Year 2014-2018 Strategic Plan is to strengthen the integrity of the agency's programs. In line with this goal, SSA requested additional program integrity funding for fiscal year 2015 to enable the agency to conduct more CDRs, and Congress made these funds available. SSA recently reported that in each year since 2012, it has increased the number of reviews conducted for SSI children, completing nearly 90,000 reviews in fiscal year 2014, in contrast to the 25,000 reviews it completed in fiscal year 2011, the year prior to GAO's audit. The agency stated it will continue to work toward eliminating its CDR backlog for SSI children if it receives sustained and predictable funding. While additional funding may help address the backlog, we continue to have concerns about the agency's ability to manage its resources in a manner that adequately balances its service delivery priorities with its stewardship responsibility. Because SSA has noted that it considers SSI childhood CDRs to be a lower priority than other CDRs, it is unclear whether the agency will continue to use new increases in funding to review children most likely to medically improve—reviews that could yield a high return on investment.

As a result of CDRs, disability recipients that SSA determines have improved medically may cease receiving benefits; however, several factors may hinder SSA's ability to make this determination. In prior work,[18] our analysis of SSA data showed that 1.4 percent of all people

[17]This estimate pertains only to children with mental impairments. Implementing the recommendation would also likely result in additional cost savings from preventing overpayments to children with physical impairments. To perform this analysis, we considered two potential sources of cost savings: (1) addressing the CDR backlog for children with mental impairments who are expected to medically improve or for whom medical improvement is possible and (2) conducting future CDRs for these recipients, as scheduled. We considered such factors as the average cessation rate after appeals, average benefit amount, average amount of time in benefit receipt before age 18, and average cost of performing a CDR. See GAO, *2015 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits*, GAO-15-404SP (Washington, D.C.: Apr. 14, 2015).

[18]GAO, *Social Security Disability Programs: Clearer Guidance Could Help SSA Apply the Medical Improvement Standard More Consistently*, GAO-07-8 (Washington, D.C.: Oct. 3, 2006).

who left the agency's disability programs between fiscal years 1999 and 2005 did so because SSA found that they had improved medically; however, recipients more commonly left for other reasons, including conversion to Social Security retirement benefits or death.[19] At that time, we identified a number of factors that challenged SSA's ability to assess disability program recipients using the medical improvement standard, including (1) limitations in SSA guidance for applying the standard; (2) inadequate documentation of prior disability determinations; (3) failure to abide with the requirement that CDR decisions be made on a neutral basis—without a presumption that the recipient remained disabled; and (4) the judgmental nature of the process for assessing medical improvement. For example, we noted that—based on a review of the same evidence—one examiner may determine that a recipient has improved medically and discontinue benefits, while another examiner may determine that medical improvement has not been shown and will continue the individual's benefits. Furthermore, we concluded that the amount of judgment involved in the decision-making process increases for certain types of impairments, such as psychological impairments, which are more difficult to assess than others, such as physical impairments.

These issues have implications for the consistency and fairness of SSA's medical improvement decision-making process, as well as program integrity, and in 2006, we recommended that SSA clarify several aspects of its policies for assessing medical improvement. Since then, SSA has taken some steps that may help address the issues we raised but has not fully implemented our recommendation. For example, SSA began implementing an electronic claims analysis tool for use during initial disability determinations to (a) document a disability adjudicator's detailed analysis and rationale for either allowing or denying a claim, and (b) ensure that all relevant SSA policies are considered during the disability adjudication process. In addition, SSA reported in its fiscal year 2016 annual performance plan that it will continue to expand the use and functionality of this analysis tool to help hearing offices standardize and better document the hearing decision process and outcomes. However, SSA's guidance for assessing medical improvement may continue to present challenges when applying the standard. As of May 2015, the guidance does not provide any specific measures for what constitutes a

[19] This includes recipients of SSI, as well as DI.

"minor" change in medical improvement,[20] and it instructs examiners to exercise judgment in deciding how much of a change justifies an increase in the ability to work.[21] We continue to believe that SSA should fully implement the actions we previously recommended to improve guidance in this area.

In light of the questions that have been raised about SSA's ability to conduct and manage timely, high-quality CDRs for its disability programs, we are currently undertaking a study of SSA's CDR policies and procedures for this Subcommittee. More specifically, we are examining how SSA prioritizes CDRs, the extent to which SSA reviews the quality of CDR decisions, and how SSA calculates cost savings from CDRs. We look forward to sharing our findings once our audit work is complete.

A Lack of Comprehensive and Timely Financial Information Contributes to Overpayments

In addition to overpayments that result when CDRs are not conducted as scheduled, overpayments may result when financial information provided to SSA is incomplete or outdated. In December 2012, we reported that SSA lacks comprehensive, timely information on SSI recipients' financial institution accounts and wages.[22] For fiscal year 2011, the unreported value of recipients' financial institution accounts, such as checking and savings accounts, and unreported wages were the major factors associated with causes of overpayments, and were associated with about $1.7 billion (37 percent) of all SSI overpayments.[23] Specifically, overpayments occurred because recipients did not report either the existence of financial institution accounts, increases in account balances, or monthly wages.

[20]See SSA Program Operations Manual System (POMS) section DI 28010.015. The standards state that "although the decrease in severity may be of any quantity or degree, we will disregard minor changes in your signs, symptoms, and laboratory findings that obviously do not represent medical improvement and could not result in a finding that your disability has ended."

[21]See POMS section DI 28015.320.

[22]GAO-13-109.

[23]Amounts are annual estimates based on 5-year averages from fiscal year 2007 through fiscal year 2011. Cumulative SSI overpayment debt nearly doubled from $3.8 billion in fiscal year 2002 to $7.3 billion in fiscal year 2011.

SSA has developed tools in recent years to obtain more comprehensive and timely financial information for SSI recipients, but these tools have limitations:

- The Access to Financial Institutions initiative, which SSA implemented in all states in June 2011, involves electronic searches of about 96 percent of the financial institutions where SSI recipients have a direct deposit account. This initiative therefore provides SSA with independent data on a recipient's financial institution accounts for use in periodically redetermining their eligibility for payments. However, in our December 2012 report, we found that this initiative does not capture all relevant financial institutions, and SSA staff were generally not required to conduct these searches for recipients who, for example, report a lesser amount of liquid resources or do not report any financial accounts.

- The Telephone Wage Reporting system, implemented in fiscal year 2008, allows recipients to call into an automated telephone system to report their monthly wages. Agency officials reported that this system should ease the burden of reporting wages for some recipients and save time for SSA staff since wage data is input directly into SSA's computer system. At the same time, the accuracy and completeness of information obtained through this system is limited because it relies on self-reported data and the system is unable to process wage information for individuals who work for more than one employer.

SSA recently reported that it is continuing to gain experience using these tools and is studying the effects of recent expansions to the Access to Financial Institutions initiative. In May 2015, the SSA Office of the Inspector General (OIG) noted that despite SSA's implementation of the Access to Financial Institutions initiative, the dollar amount of overpayments associated with financial account information has increased over the last few fiscal years. The OIG recommended that SSA continue (1) monitoring Access to Financial Institutions to ensure a positive return on investment and (2) researching other initiatives that will help to reduce improper payments in the SSI program. SSA agreed with the OIG's recommendations and noted that it is studying the effects of recent expansions of the initiative, including an increase in the number of undisclosed bank account searches performed and inclusion of more recipients with lower levels of liquid resources.

Over the years, we have also identified issues with inaccurate wage reporting by employers that have contributed to improper payments. We and the SSA OIG have previously identified patterns of errors and

irregularities in wage reporting, such as employers using one Social Security number for more than one worker in multiple tax years. Inaccurate wage information can lead SSA to make either overpayments or underpayments to SSI recipients. In July 2014, we identified indications of possible Social Security number misuse in wage data used by SSA for the SSI program.[24] In one case, an individual in California had wages reported from 11 different employers in seven other states during the same quarter of calendar year 2010, suggesting that multiple individuals may have been using the SSI recipient's Social Security number and name for work.[25] According to SSA, Social Security number misuse can cause errors in wage reporting when earnings for one individual are incorrectly reported to the record of another person having a similar surname.[26] However, we found that the prevalence of such Social Security number misuse in SSA's wage data was unclear.

SSA's Oversight and Documentation of Overpayment Waivers Is Limited

When an SSI overpayment is identified, recipients are generally required to repay the overpaid amount, although they can request a waiver of repayment under certain circumstances. We reported in December 2012 that SSA increased its recovery of SSI overpayment debt by 36 percent from $860 million to $1.2 billion from fiscal year 2002 to fiscal year 2011. However, SSA grants most overpayment waiver requests, and waiver documentation and oversight was limited.[27] Specifically, in fiscal year 2011, SSA approved about 76 percent of all SSI overpayment waivers requested by recipients. Claims representatives, who are located in SSA's approximately 1,230 field offices, have the authority to approve such waivers, and SSA does not require supervisory review or approval for overpayment waivers of $2,000 or less. According to the standards for internal control in the federal government, agencies must have controls in place to ensure that no individual can control all key aspects of a

[24]GAO-14-597.

[25]There are instances when individuals could work for multiple employers simultaneously, but it is questionable that one person could work for multiple employers simultaneously in different regions of the country during the same quarter.

[26]According to SSA policy, if earnings are identified that do not belong to the number holder, the individual may submit a signed statement "disclaiming" the wages as his or her own and have the earnings removed from his or her Master Earnings File—the main source of SSA's earnings data.

[27]GAO-13-109.

transaction or event. We recommended that SSA review the agency's policy concerning the supervisory review and approval of overpayment waiver decisions of $2,000 or less. SSA agreed with this recommendation and subsequently convened a workgroup to evaluate this policy and review the payment accuracy of a random sample of waiver decisions. SSA found that the dollar accuracy rate of the randomly selected waiver transactions it reviewed in the SSI program was nearly 99 percent. However, in a more recent review of 5,484 SSI waiver decisions of less than $2,000, SSA found that 50 percent of decisions were processed incorrectly.[28] In light of this finding, we continue to believe that additional supervisory review may improve program integrity. However, as a result of its earlier study findings, SSA decided to continue its current policy for waiver decisions of $2,000 or less.

Beyond SSA's field offices, we also found limited oversight of the waiver process on a national basis. In our December 2012 report, we concluded that management oversight of the SSI overpayment waiver decision process is limited. Specifically, SSA did not analyze trends in the type, number, and dollar value of waivers granted, including those waivers below the $2,000 approval threshold that SSA staff can unilaterally approve, or determine whether there were waiver patterns specific to SSA offices, regions, or individual staff. Without such oversight and controls in place, SSA is unaware of trends in the waiver process that may jeopardize the agency's ability to maximize its overpayment recovery efforts and safeguard taxpayer dollars. We recommended that SSA explore ways to strengthen its oversight of the overpayment waiver process. While the agency agreed with the intent of this recommendation, it cited resource constraints to creating and analyzing data at the level of detail specified in our recommendation. However, we continue to believe that, short of additional steps to better compile and track additional data on waiver patterns specific to SSA offices and individuals, SSA will be constrained in its efforts to recover identified overpayments.

[28]SSA, *Continuous Quality Area Director Review: Data Analysis Report Findings and Recommendations* (January 2015).

SSA Faces Several Management Challenges in Administering SSI

SSA Is Taking Some Steps to Address Ongoing Workload and Service Delivery Challenges

SSA faces management challenges that may constrain its ability to ensure program integrity. As mentioned above, SSA has cited challenges with balancing the demands of competing workloads, including CDRs, within its existing resources. In February 2015, we reported that SSA has taken a number of steps toward managing its workload and improving the efficiency of its operations, but capacity challenges persist, and delays in some key initiatives have the potential to counteract efficiency gains.[29]

SSA is also facing succession planning challenges in the coming years that could affect program integrity. In 2013, we reported that SSA projects that it could lose nearly 22,500 employees, or nearly one-third of its workforce, due to retirement—its primary source of attrition—between 2011 and 2020.[30] An estimated 43 percent of SSA's non-supervisory employees and 60 percent of its supervisors will be eligible to retire by 2020. During this same time, workloads and service delivery demands are expected to increase. The high percentage of supervisors who are eligible to retire could result in a gap in certain skills or institutional knowledge. For example, regional and district managers told us they had lost staff experienced in handling the most complex disability cases and providing guidance on policy compliance. SSA officials and Disability Determination Services managers also told us that it typically takes 2 to 3 years for new employees to become fully proficient and that new hires benefit from mentoring by more experienced employees. SSA's Commissioner also noted that as a result of attrition, some offices could become understaffed, and that without a sufficient number of skilled employees, backlogs and wait times could significantly increase and improper payments could grow. Federal internal controls guidance states that management should consider how best to retain valuable employees,

[29]GAO-15-290.

[30]GAO-13-459.

plan for their eventual succession, and ensure continuity of needed skills and abilities. Thus, we recommended that SSA update its succession plan to mitigate the potential loss of institutional knowledge and expertise and help ensure leadership continuity. In response to our recommendation, SSA published a human capital operating plan, detailing specific workforce management and succession planning steps SSA will take across the organization. We believe this is an important step in addressing the upcoming workload and workforce challenges.

In our 2013 report, we also concluded that SSA's long-term strategic planning efforts did not adequately address the agency's wide-ranging challenges. For example, in the absence of a long-term strategy for service delivery, the agency would be poorly positioned to make decisions about its critical functions. Such decisions include how the agency will address disability claims backlogs while ensuring program integrity, how many and what type of employees SSA will need for its future workforce, and how the agency will more strategically use its information technology and physical infrastructure to best deliver services. Federal internal controls guidance states that federal agencies should comprehensively identify risks, analyze and decide how to manage these risks, and establish mechanisms to deal with continual changes in governmental, economic, industry, regulatory, and operating conditions. We recommended that SSA develop a long-term strategy for service delivery. We also noted that without a dedicated entity to provide sustained leadership, SSA's planning efforts would likely remain decentralized and short-term. We recommended that SSA consider having an entity or individual dedicated to ensuring that SSA's strategic planning activities are coordinated agency-wide.

In response to these recommendations, SSA appointed a chief strategic officer responsible for coordinating agency-wide planning efforts. SSA has also recently taken a key step toward developing a long-range strategic plan to address wide-ranging management challenges. In April 2015, SSA published *Vision 2025*, which incorporates input from employees, advocates, members of Congress, and other stakeholders and articulates a vision of how SSA will serve its customers in the future. As a next step, SSA has indicated that it will create working groups representing a cross-section of SSA staff. Under the leadership of SSA's Chief Strategic Officer, they will be charged with developing a strategic roadmap for the next 10 years that will define actions SSA will need to take and resources required to achieve SSA's vision for 2025. Moving forward, SSA will need to implement the steps outlined in its long-term strategic plan—as well as those in its human capital plan—to ensure it

has the capacity and resources needed to manage future workloads while making quality decisions.

SSI Program Complexity Is a Long-Standing Challenge

As stated in *Vision 2025*, SSA plans to realize its service delivery vision in part by simplifying and streamlining its policies and procedures, and in 2013, SSA formed an SSI Simplification Workgroup that is tasked with identifying promising proposals that could simplify the SSI program and reduce improper payments. Program complexity has been a long-standing challenge for SSI that contributes to administrative expenses and the potential for overpayments. In addition to collecting documentation of income and resources to determine SSI benefit amounts, SSA staff must also apply a complex set of policies to document an individual's living arrangements and financial support being received.[31] These policies depend heavily on recipients to accurately report a variety of information, such as whether they live alone or with others; the extent to which household expenses are shared; and exactly what portion of those expenses an individual pays. Over the life of the program, these policies have become increasingly complex. The complexity of SSI program rules pertaining to these areas of benefit determination is reflected in the program's administrative costs. In fiscal year 2014, SSI benefit payments represented about 6 percent of benefits paid under all SSA-administered programs, but the SSI program accounted for 33 percent of the agency's administrative expenditures. In our prior work, we noted that staff and managers we interviewed cited program complexity as a problem leading to payment errors, program abuse, and excessive administrative burdens.[32] In December 2012, we also reported that the calculation of financial support received was a primary factor associated with SSI overpayments from fiscal year 2007 through fiscal year 2011.[33] The SSI Simplification Workgroup is considering options for simplifying benefit determination policies as well as adding a sliding scale for multiple SSI recipients in the same family.

In light of these long-standing issues, we have begun work for this Subcommittee that will provide information about SSI recipients who are

[31]GAO-02-849.

[32]GAO-02-849.

[33]GAO-13-459.

often subject to complex benefit determination policies. Generally, if two members of a household receive SSI benefits, both members are eligible for the maximum amount of benefits, unless they are married. However, this benefit structure does not directly reflect savings that may result from multiple individuals sharing household expenses, and the policies SSA currently applies to address this issue are highly complex and burdensome. Over the last two decades, various groups have proposed applying a payment limit to the benefits received by more multiple-recipient households, which could be used in place of the more complex calculations SSA currently performs. Our new study is examining such households and the potential administrative or other barriers to implementing a change in the amount of benefits received by households with multiple recipients.

Promoting Employment and Self-Sufficiency Among Recipients Is a Long-Standing Challenge

Another long-standing challenge for the SSI program is that once on benefits, few individuals leave the disability rolls, despite the fact that some may be able to do so through increased earnings and employment. Our prior work has noted that if even a small percentage of disability program recipients engaged in work, SSA's programs would realize substantial savings that could offset program costs.[34] To this end, the Ticket to Work and Work Incentives Improvement Act of 1999 provided for the establishment of the Ticket to Work and Self-Sufficiency Program (Ticket program) which provides eligible disability program recipients with employment services, vocational rehabilitation services, or other support services to help them obtain and retain employment and reduce their dependency on benefits.[35] In May 2011, we reported that the Ticket program continued to experience low participation rates, despite revisions to program regulations that were designed to attract more disability program recipients and service providers. Further, although participants have a variety of differing needs, the largest service providers in the program focused on those who were already working or ready to work. One service provider told us that certain disability program recipients are often screened out because they lack the education, work experience, or transportation needed to obtain employment. We made several recommendations for improving program oversight in our May 2011

[34]GAO-11-324. When referring to disability program recipients, we are including SSI and DI recipients.

[35]Pub. L. No. 106-170, § 101, 113 Stat. 1860, 1863.

report, which the agency has since implemented.[36] However, the number of individuals using the Ticket program who left the disability rolls because of employment remains low—under 11,000 in fiscal year 2014.

Individuals who start receiving SSI as children often collect benefits for the long term, potentially because they do not receive interventions that could help them become self-sufficient. Approximately two-thirds of child recipients remain on SSI after their age 18 redeterminations. Research has found that children who remain on SSI benefits into early adulthood have higher school dropout rates, lower employment rates, and lower postsecondary enrollment rates in comparison to the general young adult population. Additionally, these youth participate in vocational services at a low rate. In light of this, concerns have been raised that SSA is not doing enough to inform youth on SSI who are approaching age 18 about available employment programs. At the request of this Subcommittee, we will soon begin work to examine SSA's efforts to promote employment and self-sufficiency among youth on SSI.

Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contacts and Staff Acknowledgments

If you or your staff have any questions about this statement, please contact me at (202) 512-7215 or bertonid@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this statement include Rachel Frisk, Alexander Galuten, Isabella Johnson, Kristen Jones, Phil Reiff, and Walter Vance.

[36]We recommended that SSA should (1) prioritize and carry through with a study of participants' exits from the rolls since revisions to the program's regulations took effect in 2008, (2) adopt a strategy for compiling and using data on trends in service provision to determine whether service approaches are consistent with program goals, (3) develop a strategy to ensure on-time completion of timely progress reviews of participants and take steps to ensure the accuracy of information used to make timely progress determinations, and (4) move forward to develop certain performance measures consistent with the requirements of the Ticket law.

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Chairman BOUSTANY. Mr. Eysink, you may proceed.

STATEMENT OF CURT EYSINK, EXECUTIVE DIRECTOR, LOUISIANA WORKFORCE COMMISSION

Mr. EYSINK. Thank you, Chairman Boustany, Ranking Member Doggett, and Members of the Committee for this opportunity to share with you some of the progress Louisiana has made in reducing fraud, waste, and abuse in the Unemployment Insurance system and, also, to suggest an approach which may improve the performance of the system while lowering its costs across the country.

That focus should be on reemployment activities. During the Great Recession, it became apparent that claimants who got help from the State and local staff in all of our offices got a good result faster than those who relied only on our self-service tools to look for work entirely on their own.

Now in Louisiana they must appear almost every 2 weeks during the first 10 weeks of their claims for coaching, labor market information, job search assistance, assessments or other services identified in their customized reemployment plans. They must conduct certain fundamental job search actions in our system so that we can continue to validate their eligibility.

And it is working. About 75 percent of otherwise eligible claimants initially fail to meet the requirements and their benefits are suspended. Only about one-third of those with suspensions returned to the system to comply and resume their benefits. That means about half of all claimants who receive an initial payment are quickly disqualified. Crosschecks against our wage records and new hires databases shows that only a small percentage of those who are disqualified, in the single digits, do not return to work.

Last year an analysis by Louisiana State University economists showed that, since we launched this program, our trust fund has grown in the tens of millions of dollars, more than they could account for by the strengthening of our economy. Louisiana's unemployment rate is 1.2 percentage points higher than the national average, but the average duration of benefits is more than a week less.

Congress deserves a lot of credit for this approach. You launched and funded the Reemployment and Eligibility Assessment Program to help States and their claimants recover from the Great Recession. Our brand is blended with that program. It is more intense and it more tightly integrates unemployment insurance with workforce development and job placement. It is proving to work well in better economic times, also. We are not the only State experimenting with variations of this theme, but more States should join us.

Another very important benefit of having people show up in person and prove they are who they claim they are is that it blocks them from being able to use others' identities for fraud. This is as true for identity theft rings as it is for an individual who borrows the identity of a friend or a relative who is incarcerated. And if they are already working, they can't show up to try to maintain eligibility for benefits.

This summer we will launch the second phase in the modernization of our Unemployment Insurance system. It will greatly in-

crease automation, reduce costs, and improve integrity by, among other things, building in 40 different crossmatches with State, Federal, and private databases. These crossmatches will verify each claimant's identify in realtime and force claimants to address discrepancies before they can complete their claim.

Mr. EYSINK. Those discrepancies, for example, could be a Social Security number that doesn't match their name or birth number associated with it or it could be that the claimant identify matches a prison inmate.

I want to give you an example of a crossmatch that is really working today, as proposed to us by Texas and jointly developed by our two States. Many claimants work in one State and live in the other across the border. Those claimants still have to register for work in the State in which they leave.

Well, we weekly swap information on those claimants and those who don't register are disqualified. So far, since that program began 3 years ago, we have together avoided $36.7 million, an estimate, of improper payments in our two States. The total programming and implementation cost was just $43,000.

We are also instituting the same kinds of integrity on the employer side. We have a portal which they have to use to file their wage records. When they file, we validate the identity of the employer, but also the identities of their staff members who engage in that system, so that nobody can commit fraud from that side or file false reports. It has improved our error rate dramatically and lowered our costs.

Finally, I want to talk about—I leave you with one thought. I do not believe that States have to choose between good customer service and paying claims timely, on one hand, and UI integrity, on the other. It does take time and money to rebuild a broken system, but it is possible to improve service and integrity at the same time. And the investment is returned many times over. In 2008, our system ranked very poorly, 52nd or 53rd against other States, for many indicators, other states Guam, Puerto Rico and D.C.

Today we are doing much, much better. Our improper payment rate has been cut to about the OMB threshold and continues to improve. We have reduced the duration of claims, and we are a national leader, I believe, in identifying misclassified workers.

The cost burden of our Unemployment Insurance system as a percentage of payroll is the second lowest amongst the States. We could not have made these improvements without the persistence and support of the Department of Labor and the great ideas and lessons learned from many other States. Such collaboration, along with the State's ability to develop solutions that best fit their own circumstances, are keys to the continued improvement of the entire system.

I am happy to answer any questions. And thank you for your time today.

Chairman BOUSTANY. Thank you for sharing the Louisiana experience with us and for the leadership you have provided in that regard. So thank you. I appreciate you being here today.

[The prepared statement of Mr. Eysink follows:]

House Ways and Means Subcommittee on Human Resources
Addressing Unemployment Insurance Fraud, Waste, and Abuse
June 3, 2015

Introduction

Chairman Boustany, Ranking Member Doggett and members of the committee, thank you for this opportunity to share with you the progress Louisiana has made in reducing fraud, waste and abuse in the unemployment insurance system and also to suggest an approach that could improve the performance of the system while lowering its costs across the country.

I am Curt Eysink, executive director of the Louisiana Workforce Commission and president-elect of the National Association of State Workforce Agencies. Improving the performance and costs of the unemployment insurance system is a focus of mine in both roles.

The first two targets for reducing fraud, waste and abuse in the unemployment insurance system are obvious. One deals with unemployment taxes, ensuring that all employees who should be covered are covered, and that taxes are computed correctly and collected. The second obvious target is to reduce improper payments, which are payments made as a result of fraud or errors, or even when benefits are awarded when all parties are operating in good faith, but which are overturned later on appeal. The federal target limit for all improper payments is 10 percent of UI benefit payments.

The third target is less obvious: The other 90 percent of benefit payments that are paid in the right amounts to claimants who are eligible. Most of the cost in the system derives from weekly payments made to these people. Are we doing the best job we can to drive their re-employment and shorten the duration of their benefits? Many employers have job openings they're struggling to fill, nearly all claimants need a job and the workforce and unemployment insurance systems need to marry the two quickly. That can happen at maximum efficiency only through the integration of unemployment insurance and workforce services.

I believe that a key to the unemployment insurance system reaching its full potential lies in integrating it much more tightly with the workforce development system than is the case today. The benefits of that integration will be far-reaching.

I will address all three targets in my remarks today.

1. Unemployment taxes

Ensuring that all workers who should be covered as employees rather than misclassified as independent contractors is a major focus of the Louisiana Workforce Commission. We continue to engaged in a significant education campaign aimed at employers to make sure they understand the law. We have an online tool, an independent contractor test, that allows employers to determine the proper classification of their workers. And our legislature has approved tougher penalties for flagrant violators.

Our targeted audit program has proven to be another critical step. We select audit leads based largely on the number of 1099s they issue. In 2014, our tax agents audited 1,132 of those businesses. Some had never even registered with us and were not paying any taxes. All told, our tax agents discovered and reclassified 12,779 workers from independent to employee

status. This was a 329 percent increase over 2013 and a 4,000 percent increase over 2010, when we were still randomly selecting companies to audit. The 2014 audits discovered $130 million in unreported wages, resulting in the assessment of $2.1 million of UI taxes, of which 85 percent has already been collected.

Close collaboration with the Department of Labor's Wage and Hour Division resulted in the closure of five cases last year involving the discovery of 1,264 misclassified workers and nearly $10.5 million in unreported wages. Our online UI tax fraud reporting tool produced 97 audit leads last year and resulted in the discovery of 78 misclassified workers and nearly $500,000 in unreported wages.

It is important to note here that to the extent these activities required state legislation, we had the support of both organized labor and the state's business lobby. Not only do these efforts ensure that employees who should be covered in the unemployment insurance system actually are covered, but they ensure a level playing field for the huge majority of businesses that do play by the rules, do take care of their workforce and do pay the taxes they owe.

Another area in which Louisiana and many other states have been very successful is in detecting SUTA dumping, or employers' improper manipulation of their UI tax rates. SUTA dumping typically occurs when employers transfer their workers to another business unit with the same ownership but don't transfer the experience rating along with the people. That practice "dumps" the offending employer's tax liability onto the other employers in the system. North Carolina used a Department of Labor grant to develop SUTA dumping detection software that the DOL, in turn, makes available to all states. From 2010 to 2014, the LWC SUTA dumping team opened 57 cases, resulting in the discovery and collection of $3 million in taxes. NASWA's IT Support Center charges $3,500 a year for technical assistance and maintenance of that tool.

Finally, on the tax front, is the issue of eliminating errors and waste and preventing fraud. Louisiana took a long leap forward last year by requiring all employers to register and submit all wage reports and UI taxes online through our UI wage portal. Employers can enter their required data directly or upload files from their commercial bookkeeping or payroll systems. The portal calculates taxes owed rather than leaving that job to employers, eliminating a significant source or errors. Also gone are our key stroke errors that created so much extra work for us and so much frustration for employers for years. In addition, the data entry personnel we used to hire for six weeks every quarter are no longer needed.

These online transactions also are critical in preventing fraud. Once a company establishes an account, its individual staff members who post reports or pay taxes for them must then register for privileges to use the system. A stringent log-in process for the individual user allows us to validate identities. The system provides a complete audit trail and also captures the IP address of the filer.

All of these measures taken to ensure the efficiency and integrity of our tax operations and a level playing field for all legitimate employers have greatly contributed to the strength of Louisiana's unemployment insurance trust fund and our ability to maintain UI taxes that are the second lowest among the 50 states.

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2. Reducing improper payments

It is essential that we keep in mind the underlying purpose of the unemployment insurance system. It is intended to provide temporary, partial wage replacement for employees who lose their jobs through no fault of their own. To qualify for benefits, claimants must have sufficient work history and be able to work, be available for work and actively search for work in each weak of their claim.

The major sources of improper payments are:

1. Separation errors, or errors in determining whether a claimant was laid off, quit or was fired and whether that claimant was fired for misconduct sufficient to deny benefits. These errors are typically caused by employers' failure to respond to information requested by adjudicators or when adjudicators fail to engage in sufficient fact finding to render a proper determination. Education and training for employers and agency staff can help resolve both issues, along with other personnel actions against our staff whose performance does not improve.
2. Payments to individuals who defraud the system by continuing to claim benefits after they have gone back to work. These payments have been reduced across the country and by almost two-thirds in Louisiana by cross-matching benefit claims against wage records and State and National Directories of New Hires. However, these cross-checks work well only when employers meet their reporting requirements to UI agencies and to their state new hire directories.
3. Payments to individuals who file claims even when they are not "able and available" for work or when they are not fulfilling their responsibility to register for and search for work. These payments can be minimized by cross-checking claims against databases of recipients of workers' compensation or certain government benefits, jail and prison inmates, immigration status, and by properly tracking claimants' work registration and job search activities. With the right agreements and systems, these cross-checks all can be done electronically and quickly before claims are paid and they can be repeated throughout claimants' benefit periods.
    - An example of an innovative and highly effective cross-match is one proposed to Louisiana by Texas and developed jointly. Many claimants live in one state and work in the other. If they are laid off, they can file for benefits in the state where they worked, but most still have to register with the workforce agency in the state where they live. Under our arrangement with Texas, each state's workforce commission sends the other a list each week of claimants who live in the other state. We each match those lists against the people who are registered with our workforce systems. Those who don't meet their registration requirements are suspended from receiving benefits.
      Since its inception three years ago, the agreement has avoided an estimated $36.7 million of improper payments in our two states. The total programming and implementation cost was about $43,000.

4. Today, we also have to be extremely vigilant against broader, more sophisticated fraud schemes. They typically involve the establishment of fictitious employer accounts and/or they file bogus claims using the stolen identities of real people or falsified federal documentation, such as Social Security numbers, military records or immigration documents. These attacks can be launched from other states or countries.

   They can be stopped by validating the identities of all claimants and companies, tracking the IP addresses of claims and business registrations and flagging for investigation those that are out of state. We also need to monitor how soon claims are filed against employers once they register with the UI system. We even have to monitor for some things that are strikingly unsophisticated, such as multiple claims with the same addresses or sequential Social Security numbers.

   States and the federal government all need to work together closely to identify these schemes and share information once they are discovered to cut them off immediately and identify the perpetrators. This collaboration has begun and I expect it will improve many times over once the national UI Integrity Center of Excellence is fully up and running.

This national integrity center is funded by the Department of Labor through New York and is being stood up by NASWA on behalf of all states. The goal of the center is to promote the development and implementation of innovative UI integrity strategies, including the prevention and detection of fraud. Among its strategies will be the exploration of new technologies and data sources and sophisticated data analytics and predictive modeling to improve prevention and detection of improper payments. Its work will continue to evolve over time as fraud schemes and other root causes of improper payments evolve.

In Louisiana, we are close to another evolutionary upgrade in our own efforts to reduce improper payments through better technology. This summer, we will launch the second in a three-phase modernization of our UI computer system. We are moving off a mainframe system launched in the 1970s and onto a web-based system that will greatly increase automation, reduce costs and improve integrity by, among other things, building in 40 different cross-matches with state, federal and private databases. For instance, the cross-matches will verify each claimant's identity in real time while he is filing his claim. The claimant will have to address discrepancies before he can complete his claim. Discrepancies could include, for example, a Social Security number that doesn't match the name or birth date submitted by the claimant, or a claimant identity that matches a prison inmate or someone receiving SSDI.

Many other states already have modernized their systems or they are somewhere along the way. However, Louisiana is a rarity in that we are building our new UI system onto our workforce system rather than replacing an old silo with a new one. Not only will the single system offer a quantum leap in customer service for employers and job seekers, but it also will fully implement our strategy for maximizing the performance and minimizing the cost of unemployment insurance by integrating it with workforce development and job placement.

Collection of overpayments

We're also doing a better job than we've done before of collecting overpayments. One of our best tools for this is the Treasury Offset Program operated in partnership with the IRS. This

program allows us and all states who meet stringent security requirements to seize federal tax refunds to satisfy overpayment debt. Since Louisiana began participating in March 2012, we have recovered $26.85 million.

We and other states operate similar programs through our state revenue or tax departments. We've done so since 1986, and since 2012 we have recovered $14.62 million from Louisiana tax refunds.

In addition to standard collection methods, such as placing liens on immovable property, mailing monthly delinquency statements, referring fraudulent claims to the DOL's Office of the Inspector General, we also participate with all other states in the Interstate Reciprocal Overpayment Recovery Arrangement (IRORA). It is an agreement among states to collect overpayments of unemployment benefits for each other.

3. Driving the re-employment of UI claimants

Our goal at the Louisiana Workforce Commission is to help everyone get the best job available for them as fast as we can. That is particularly important for UI claimants, all of whom have had their income chopped and many of whom have had their confidence shaken. People who have worked for the same company for years typically have strong technical or workplace skills but little idea about how to find another good job. They struggle with resumes and often need coaching to interview well.

During the Great Recession, it became apparent that claimants who got help from the state and local staff at our Business & Career Solutions Centers got a good result faster than those who relied only on our self-service tools or looked for work entirely on their own.

During 2012, we began requiring claimants to appear at their local center within two weeks of receiving their first payment so that they could get the help that so many of them need. Now, they must appear almost every two weeks for coaching, labor market information, job search assistance, assessments or other services identified in their customized re-employment plans. Although we encourage them to use all means available to find their next job, we require claimants to conduct certain fundamental job search actions in our system so that we can validate their continued eligibility to receive benefit payments.

The initial goals were to reduce the duration of UI claims by returning claimants to work faster, and to emphasize the shared responsibility between the state and claimants: We will do all that we can to help you return to work and you must do the same or lose your benefits until you engage properly.

We piloted this concept in the Acadiana Region of Louisiana, where the Workforce Investment Boards were willing to take the implementation risk. What we found encouraged us and the other workforce boards to quickly scale the program statewide. We continue to see similar results today, three years later. They are:

1. Claimants accept the requirements immediately. I still have heard of only one complaint. A woman in Opelousas said that if she was going to have to meet all of our new requirements, she might as well get a job.

2. In any rolling one-year period, about 75 percent of otherwise eligible claimants initially fail to meet the re-employment requirements and their benefits are suspended. Only about one-third of those with suspensions ever return and comply so that their benefits can resume.
3. Cross-checks against our wage records and the new hires databases show that only a small percentage of claimants who are knocked out initially, in the single digits, do not return to work.
4. Last year, an analysis of our trust fund by Louisiana State University economists, under contract to us, showed that our trust fund had grown in the 10s of millions of dollars more than they could account for as a result of our strengthening economy and other factors in their models. The only significant factor not in their models was our re-employment program.

We have drawn several conclusions from these results and from anecdotal information from our claimants:

1. Claimants expect to be held accountable for looking for another job.
2. Many claimants find their next job faster with in-person help and a little compliance pressure.
3. Claimants who are not serious about looking for work will disengage.
4. People who use others' identities to claim benefits cannot perpetrate their schemes if they have to show up in person and prove they are who they claimed they are. This is as true for identity theft rings as it is for an individual who "borrows" the identity of a friend or relative who is incarcerated.

Our system modernization project already creates a Wagner-Peyser work registration for claimants at the same time they file their initial UI claim, making them a job seeker, trackable in our system, before they ever receive a payment. The system also lets them check their claim status, search and apply for jobs, explore training opportunities, complete assessments and build their own re-employment plans. Based on the information they must submit with their claims, the system immediately recommends available jobs in their area that are similar to their most recent employment. Louisiana's unemployment rate is 1.2 percentage points higher than the national average but the average duration of our unemployment claims is more than a week less.

Overall UI system performance

In 2008, before the Great Recession and before the twin hurricanes Gustav and Ike hit Louisiana, before the BP oil spill and before Hurricane Isaac, our UI system ranked as low as 52nd or 53rd against the other states, the District of Columbia, Puerto Rico and Guam on a number of federal performance indicators. Our customer service was poor and our improper payments were high. Today, our motto is "Everyone owns integrity," evident in posters throughout our UI offices. Our improper payment rate has been cut to about the OMB threshold and continues to improve. A customer service index we created to benchmark our

claims accuracy and speed of payments against other states ranks us at ninth in the country. We have sharply reduced the duration of claims and we are a national leader at identifying misclassified workers. The cost burden or our UI system on employers is the second-lowest among the states, and we anticipate another leap forward in all of our performance measures once we launch the final two phases of our system modernization.

I note these performance trends to make the point that UI integrity can be addressed effectively in most economic conditions without sacrificing customer service or hiking taxes.

Although our trust fund lost about half of its value during the Great Recession, Louisiana clearly experienced less impact in that regard than many other states. That, along with a patient, helpful but persistent DOL regional office staff, a massive internal process improvement program and our engagement with many other states, both directly and through NASWA, have enabled Louisiana's UI program to make quantum leaps in performance while containing costs and improving service levels. We are happy to work with other states in hopes that our experiences may be as helpful for them as their experience and counsel have been for us.

I'm happy to answer any questions. Thank you for your time today.

Chairman BOUSTANY. Ms. Rohlman, you may proceed.

STATEMENT OF DEBRA ROHLMAN, VICE PRESIDENT OF GOVERNMENT SALES, EQUIFAX WORKFORCE SOLUTIONS

Ms. ROHLMAN. Good morning, Chairman Boustany, Ranking Member Doggett, and distinguished Members of the Subcommittee. My name is Debra Rohlman, and I serve as Vice President of Government Sales Solutions and Client Relations for Equifax Workforce Solutions, a subsidiary of Atlanta-based Equifax, Inc., which is based in Congressman Lewis' district.

I appreciate the opportunity to appear before you today and provide information related to the employment and income verification services that Equifax Workforce Solutions provides State and Federal agencies to assist in their administration of public assistance programs.

Separate from our traditional credit-reporting business, our automated employment and income verification service is provided through our proprietary database known as The Work Number. This database, which is governed by all applicable Federal and State regulations, is comprised of the current payroll data of thousands of employers with the salary information of their workforces.

Equifax is then able to deliver a streamline, secure, and timely transfer of information between employers and verifiers that ultimately benefits the consumer by accelerating the decision process on their loan or government benefit while freeing the employer from the disruption of verification requests.

In 2014, we provided over 18 million verifications to government entities, including agencies in all 50 States and Washington, D.C. We help these agencies by providing data for applicants of various programs, such as SNAP, TANF, CHIP, Medicaid, UI, SSI, as well as for child support enforcement and states and local housing authorities.

My written testimony provides a more detailed overview of how we work with these and other Federal agencies. We commend the bipartisan efforts to address the issues around implementation of Treasury's Do Not Pay portal, originally intended to reduce improper payments, yet hindered by statutory privacy concerns.

I would now like to address the potential changes that should be considered to improve the efficacy of the UI and SSI programs.

In SSI, one area where change is needed is the frequency in which benefit charges against employers, unemployment accounts are issued. Our data indicates improper payments are more easily identified and addressed when State UI agencies provide benefit-charged statements with a weekly breakdown of data versus some agencies' practices of quarterly or even annual data. We would welcome the committee's support in requiring all States to provide weekly UI benefit charge detail.

The second area where opportunity exists is the format of wage audit and earnings verification forms. The majority of UI agencies require wage data be provided in a weekly, Sunday through Saturday, format. In practice, this is not a common payroll frequency and often results in complex recalculations by employers, incorrect data provided or simply noncompliance.

If UI agencies would accept wage information in an employer's customary format at the initial earnings wage audit and pursue a detailed breakdown only on actual or suspected fraud cases, compliance would improve. We would encourage the committee to require State UI agencies' consideration of more traditional payroll systems, verification databases, and technologies.

In regard to the current SSI verifications process, there are two areas that can be improved. First, SSI verifications are currently performed on a manual per-applicant basis that is both labor- and time-intensive.

We would welcome the committee's support in expanding the SSA's use of commercial databases to allow batch verifications of applicants. This batch process would ensure that every SSI applicant is checked on a monthly basis for any changes to their employment or income and, therefore, preventing potential improper benefit payments.

Second, due to statutory limitations, SSI is only permitted to verify income for eligibility at initial application and for annual redetermination because an applicant's job status can change a number of times throughout a year.

Congress should consider passing legislation that would allow the SSA to verify income with a third-party database on a monthly basis in a batch format instead of annually on a per-applicant basis.

In closing, Equifax encourages the committee to review the program improvement recommendations I highlighted today and in my written testimony. We stand committed to helping State and Federal agencies make eligibility determinations, reduce improper payments, improve service, and increase overall program integrity.

Thank you for the opportunity to testify, and I welcome your questions.

Chairman BOUSTANY. We thank you, Ms. Rohlman.

[The prepared statement of Ms. Rohlman follows:]

Good morning Chairman Boustany, Ranking Member Doggett, and distinguished Members of the Subcommittee. My name is Debra Rohlman and I serve as Vice President of Government Sales Solutions and Client Relations for Equifax Workforce Solutions. I appreciate the opportunity to appear before you today and provide information related to the employment and income verification services that Equifax Workforce Solutions provides to state and federal agencies to assist in their administration of public assistance programs. The verifications services we provide to these programs help state and federal agencies make eligibility determinations, reduce improper payments, improve service, and increase staff efficiency. Government agencies that administer public assistance to individuals and families use our verifications services to independently confirm applicant-provided information, identify missing or incomplete income data, and reduce program fraud.

EQUIFAX WORKFORCE SOLUTIONS

When people hear the name Equifax, many think of us as the company that provides credit reports to their lenders when they apply for a new mortgage, refinance their current mortgage, buy a new car or try to obtain a new credit card. I am here to discuss Equifax Workforce Solutions, which is a subsidiary of Equifax, but is separate from the credit reporting business. This business unit is employed by over 8,200 human resources departments and is the leading employment and income verification service in the country. Equifax Workforce Solutions provides human resource data, analytic services, and verifications of employment and income to both the public and private sectors. We manage unemployment claims, tax matters, and employment and income verification services for over 75% of the Fortune 500 companies. We also provide other outsourced human resources functions, such as I-9 compliance and management, W-2 and payroll processing, workforce analytics, and employee onboarding.

THE WORK NUMBER

Our automated employment and income verification service is provided through our proprietary database known as The Work Number®. The Work Number delivers a streamlined, secure, and timely transfer of information between employers and verifiers that ultimately benefits the consumer by accelerating the decision process on their loan or government benefit, while freeing the employer from the disruption of verification requests. Over 4,600 employers, including the majority of Fortune 500 businesses and most of the federal civilian agencies, contribute their payroll information to the database at each pay period, entrusting Equifax Workforce Solutions to provide critical human resources functions on their behalf.

Equifax Workforce Solutions operates in a closely regulated environment in accordance with federal law and explicit consumer consent must be provided before we verify their income.

When a consumer seeks a loan for housing or auto, or fills out a credit card application, the lender often requests verification of the applicant's employment and income. Without The Work Number database, the lender would typically contact the Human Resource department of the consumer's employer for that information – often suspending the consumer's financial transaction until the necessary data is confirmed. The Work Number allows lenders to verify employment and income without contacting the employer directly, speeding up the verification process and reducing the burden on the employer. The process also benefits consumers, because consumers can obtain more ready access to credit and to the services for which they have applied, without delays caused by having to manually obtain paystubs and provide them to lenders.

Additionally, The Work Number service is utilized by state and federal government agencies as they seek to verify eligibility for government public assistance benefits. Benefits such as the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance to Needy Families (TANF), Children's Health Insurance Program (CHIP), Medicaid, Unemployment Insurance (UI), Supplemental Security Income (SSI) and housing assistance require a social services agency to determine that a consumer meets the program's eligibility requirements. The Work Number provides an efficient solution to government agencies as they process applications for government benefits.

Equifax Workforce Solutions requires its public sector verifier clients, other than child support enforcement agencies[1], to obtain the applicant's consent for the verification of his or her income. The consumer will typically sign his or her consent in the application documents. This consent process goes beyond FCRA requirements and provides the consumer with increased transparency and awareness that their income will be further verified when applying for these government benefits.

FAIR CREDIT REPORTING ACT

The Work Number database of employee payroll information is a completely separate operation from the division of Equifax that manages its credit bureau data. The two information sources are kept separate and data stewardship rules dictate how the information is handled within each organization. Both data sources,

[1] *See FCRA Section 604(a)(4)(5)*

however, are compliant with all applicable federal and state regulations, including the federal Fair Credit Reporting Act (FCRA) and both are protected by globally recognized standards for information security and data management.

Equifax Workforce Solutions is a "consumer reporting agency"[2] as defined by the FCRA when it provides services that rely upon The Work Number database. Automated verifications of employment and income provided by Equifax Workforce Solutions through The Work Number are "consumer reports"[3] and regulated by the FCRA. The verification of a consumer's employment and income in determining a consumer's eligibility for government benefits is a "permissible purpose" and is authorized under FCRA Section 604. This section of the law allows a consumer reporting agency to furnish a consumer report under the following relevant circumstances:

> (a) (3) To a person which it has reason to believe –
>
> (D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status.

As part of our FCRA compliance obligations, Equifax Workforce Solutions requires the credentialing of all verifier clients and we obtain certifications that The Work Number data will only be used for permissible purposes as allowed under the FCRA. Equifax Workforce Solutions also provides consumers the ability to obtain an annual free copy of their "Employment Data Report," our Workforce Solutions employment and income data file, and a process to dispute any inaccuracies they may find in their data within the report.

In addition to the permissible purpose requirements contained within the FCRA, Equifax Workforce Solutions requires consumer consent in most cases for a verifier to receive income information from The Work Number. Typically, the consumer would provide explicit consent to independent verification of the information that he or she provides in their application for benefits. Verifiers are also subject to potential audits during which they are required to show proof of consumer consent.

GOVERNMENT EXPERIENCE

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[2] *FCRA Section 603(f)*
[3] *FCRA Section 603(d)(1)*

As I mentioned earlier, state and federal government agencies utilize Equifax Workforce Solutions to verify consumers' employment and income to help determine their eligibility for government benefit programs. As of 2012, one in three Americans lived in households that received some kind of means-tested government benefit[4]. Equifax Workforce Solutions provided over 18 million verifications to government entities in FY 2014, including agencies in all fifty states and Washington, D.C. We help these agencies by providing employment and income data for applicants of various programs such as SNAP, TANF, Medicaid, UI, and SSI, as well as for child support enforcement, and state and local housing subsidies. Government agencies that administer public assistance to individuals and families use The Work Number to verify applicant-provided information, identify missing or incomplete income data, and reduce program fraud.

To illustrate how we work with states, I would highlight our work with Louisiana, where, since 2007, Equifax Workforce Solutions has supported Louisiana's Department of Children and Family Services (DCFS) and the Department of Health and Hospitals (DHH) to provide income verifications of applicants for the state's public welfare programs (SNAP, TANF, Child Support, and Medicaid). Caseworkers for these programs access The Work Number through a secure web-based platform for real time information regarding an applicant's current employment status and payroll income. The Work Number also provides an integrated solution to DCFS to assist with their redetermination program for SNAP benefits.

At the federal level, agencies such as the Centers for Medicare & Medicaid Services (CMS) utilize The Work Number for income verification services. For example, CMS contracts with Equifax Workforce Solutions to provide real-time income verification to help CMS determine eligibility for Medicaid, CHIP, premium tax credits, and reduced cost sharing under the Affordable Care Act. Equifax has been under contract with CMS since April of 2013 to verify employment status and income for Americans who have applied for subsidies through the federal and state health insurance marketplaces, or exchanges.

UI/SSI PROGRAM INTEGRITY

State and federal agencies rely on The Work Number as a means to improve program integrity and prevent waste, fraud, and abuse in their benefits programs by helping to identify beneficiaries that may not be eligible for these benefits based on employment status or income. Two of the federal government's largest

[4] *United States Census Bureau*

assistance programs are the Department of Labor's UI program and the Social Security Administration's SSI program.

UNEMPLOYMENT INSURANCE

Equifax Workforce Solutions' unemployment compensation management solution helps employers navigate the complexities of varying state unemployment program laws and compliance requirements through claim, hearing, benefit charge, and tax services.

In recent years, we have expanded our focus and initiatives to include UI Integrity, heeding the Department of Labor's call to action that "everyone owns integrity," recognizing the added pressures on state workforce agencies to reduce improper payments. Meanwhile, we strive to help the employers we serve to better understand what the government is doing to improve the UI program and bring benefit overpayments under control because it is the employers' federal and state taxes that fund the program.

Equifax Workforce Solutions acknowledges the progress of state workforce agencies, yet we recognize the challenges posed by lack of resources, technology, and data as they attempt to further reduce improper payments. We regard state and federal UI program leaders as unique partners. Working together on service efficiencies, and a mutual understanding of needs and challenges, Equifax paved the way for collaborative program integrity efforts like the State Information Data Exchange System (SIDES). SIDES is a web-based system that allows electronic transmission of information requests from UI agencies to employers and/or Third Party Administrators, as well as the transmission of replies containing the requested information back to the UI agencies, creating a more accurate and efficient program. Equifax Workforce Solutions is an original business partner on the SIDES initiative, which is a core strategy of the Department of Labor to reduce improper payments. Currently, we exchange SIDES files with UI agencies in 36 states, with 5 additional states set to launch by the end of Q2 2015. In order to help further reduce improper payments in every state, Equifax asks that Congress encourage the Department of Labor to mandate all states implement the SIDES project.

Equifax Workforce Solutions has also been a partner in new program integrity strategies and pilot projects with the Department of Labor and state workforce agencies, such as Integrity Cross Match which cross-matches UI benefit payments against earnings data. Current tools to detect benefit overpayments, such as

quarterly wage data and data from the national Directory of New Hires, produces significant savings to state UI Trust Funds. However, data gaps and slow turnaround time may be preventing a higher potential for savings. Using The Work Number data to complement these data sources, agencies can detect overpayments earlier and verify income instantly, ultimately improving program integrity. Initial results of pilot projects in detecting overpayments earlier in the process have been promising.

Despite the positive results that programs such as SIDES and Integrity Cross Match have had in reducing improper payments, according to the Department of Labor's Benefit Accuracy Measurement (BAM) program data, the overpayment rate was over 11%, nationally in 2014. Equifax Workforce Solutions believes there are additional UI program areas where Congressional support for nationwide change and for collaboration between states and our organization can continue to help identify and drive down overpayments and fraud earlier in the process.

One area where change is needed is the frequency in which benefit charges against employers' unemployment accounts are issued. Our data indicates improper payments, including fraud, are more easily identified and more quickly addressed when state UI agencies provide benefit charge statements with a weekly breakdown of data versus cumulative quarterly data, or in some instances, in an annual data format. For UI integrity purposes, this could be "low-hanging fruit," since currently only 15 states issue charges weekly or with weekly detail. Erroneous payments made to individuals collecting benefits and wages in the same week is a leading cause of improper payments. The ability to halt erroneous unemployment payments earlier in the process would benefit state agencies and the UI Trust Fund. We welcome the Committee's support in requiring all states to provide weekly UI benefit charge detail.

A second area where improvement opportunity exists is the format of wage audit and earnings verification forms. The majority of UI agencies require wage data be provided in a weekly, Sunday through Saturday format. In reality, this is not a common payroll frequency and often results in burdensome recalculations by employers, incorrect data being provided to UI agencies, or simply noncompliance to the earnings verification request. Employers do not wish to be non-responsive to earnings verification requests, but are hampered by UI rules and processes grounded in outdated logic. If UI agencies would accept wage information in an employer's customary format on the initial earnings wage audit, and pursue a detailed breakdown only on actual fraud cases, compliance with wage audits and earnings verification requests would

improve. We would encourage the Committee to affect change towards solutions that consider more traditional payroll systems, verification databases, and technology.

Looking forward, we expect that the Department of Labor's 2014 data on improper payment rates, which lists more than half the states with overpayments above 11%, will put renewed pressure on state and federal UI program leadership to drive down these figures through strategies to eliminate improper payments. Equifax Workforce Solutions welcomes any support that the Committee can offer to remove the challenges facing state and federal agency leadership so that we may continue to collaborate on projects and initiatives like SIDES, Integrity Cross Match and more that will lead to program integrity success for government stakeholders and for business, whose tax contributions fund UI administration and benefits.

SUPPLEMENTAL SECURITY INCOME

The Social Security Administration (SSA) contracts with Equifax Workforce Solutions to verify past and current wages of individuals applying for or currently receiving Social Security Retirement, Survivors and Disability Insurance benefits and SSI benefits. In 2012, Equifax Workforce Solutions was awarded a five year contract to supply current and real time employment and income verifications to the SSA's Supplemental Security Income Division to assist in reducing improper payments, improving program integrity, and reducing administrative burden within their 13 regional offices. Today, over 25,000 individual staff members in over 50 offices nationwide access The Work Number daily to verify and validate income for SSI eligibility and annual program redetermination. All data returned to the SSA from The Work Number is refreshed with each contributing employer's payroll cycle and is instantaneously made available to the SSA and their entire verifier community. Based on incoming data requests to date, we expect the SSA to receive approximately 1,000,000 successful independent income verifications in 2015. Furthermore, Equifax Workforce Solutions has the bandwidth to accept and handle millions more additional verifications, allowing it to easily scale and grow as the SSA's demands increase.

In regard to the current SSI verifications process, Equifax believes there are two areas that can be improved. First, SSI verifications are currently performed by a manual, per-applicant basis that is both labor and time intensive. Equifax would welcome the Committee's support in expanding the SSA's use of commercial databases to allow batch verifications of applicants, instead of the current per-applicant process. The Work Number's batch system would allow the SSA to upload and verify millions of cases in a single file

submission each and every month. This batch process would ensure that every SSI applicant is being checked on a monthly basis for any changes to their employment or income and therefore preventing potential improper benefit payments from occurring. Second, due to statutory limitations, Equifax is only permitted to verify and validate income for SSI eligibility at initial application and for redetermination on an annual basis. Because an applicant's job status can change a number of times throughout a year, Congress should consider passing legislation that would allow the SSA to verify income with a third party database on a monthly basis, instead of annually. These two improvements would allow the SSA to automate and expand the verifications process, resulting in a more efficient program. The administration has also taken an increased interest in improving the SSI verifications process, as seen in the President's 2016 budget, where he has proposed to increase the SSA's use of commercial databases to verify wages for SSI and is looking to Congress to take action.

DO NOT PAY INITIATIVE

In addition to our work with UI and SSI, The Work Number is also integrated with the U.S. Department of Treasury's (Treasury) Do Not Pay (DNP) portal, a national registry that is intended to help government agencies uncover fraud and reduce the number of improper payments made by federally funded programs. DNP was initially established as a one-stop shop to allow state and federal agencies to check various databases, including The Work Number, before making payments or awards in order to identify ineligible recipients and prevent fraud or errors from being made while ensuring efficient payments to valid recipients. The DNP portal was designed to be a tool for verification. There is a common misconception that DNP will tell agencies who they should not pay. Rather, the portal will provide access to a number of databases containing information that, when compared to agency payee data, helps agencies determine whether they should pay certain consumers.

Unfortunately, DNP was recently put on hold and is currently not operational due to two statutory discrepancies Treasury has identified with the original 2012 law. First, states are prohibited from utilizing the portal in their administration of federal benefits because of statutory privacy protections. Second, agencies that utilize the portal must contract separately with third party databases included in the portal, preventing the portal from being the one-stop shop it was intended to be. In order for DNP to work as originally intended, Congress must pass legislation that will address these issues. Legislation has been recently introduced by Representatives Mulvaney and Bustos in the House (H.R. 2320) and by Senators

Johnson and Carper in the Senate (S.614). These bills aim to provide the technical fixes to the DNP law that Treasury needs to get the portal back on track.

In order to encourage states to use DNP, Treasury pays for each state to access the portal, which includes access to The Work Number. Prior to DNP being put on hold, Equifax Workforce Solutions and DNP partnered to provide state workforce agencies access to real-time employment and income verifications from The Work Number database. The Work Number receives employment and payroll data directly from employers in real-time and therefore can alert states when a UI recipient goes back to work, thus preventing a potential overpayment of UI benefits. In 2014, three states (Arizona, Utah, and Colorado) were initially identified to develop a matching process to prevent fraud and overpayments in their unemployment insurance programs. The Department of Labor is aware of this project and has encouraged states to be proactive in using The Work Number's income data to prevent improper payments, however due to the technical issues previously mentioned, these programs have been placed on hold until Congress can take action.

CONCLUSION

The relationship between Equifax Workforce Solutions and government administered public assistance programs has proven successful in preventing waste, fraud, and abuse throughout these programs, however there is still room for improvement. In closing, Equifax recommends that the Department of Labor require or incentivize all states to implement the SIDES project to help further reduce improper UI payments and encourage states to provide weekly UI benefit charge detail. We also suggest Congress to consider legislation that would allow the SSA to verify the income of recipients of SSI on a monthly basis to determine eligibility and expansion of the SSA's use of commercial databases to permit batch verifications of SSI applicants, instead of the current per-applicant process. And finally, we ask Congress to support current legislation that would provide technical fixes to DNP, allowing the portal to operate as originally intended. Equifax Workforce Solutions stands committed to helping state and federal agencies make eligibility determinations, reduce improper payments, improve service, and increase overall program integrity. Thank you for the opportunity to testify and I welcome your questions.

Chairman BOUSTANY. Next we will go to Ms. Vallas.
You may proceed.

STATEMENT OF REBECCA VALLAS, DIRECTOR OF POLICY OF THE POVERTY TO PROSPERITY PROGRAM, CENTER FOR AMERICAN PROGRESS

Ms. VALLAS. Thank you, Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee for the invitation to appear today. My name is Rebecca Vallas, and I am the Director of Policy for the Poverty to Prosperity Program at the Center for American Progress.

Without our Nation's safety net, America's poverty rate would be twice as high as it is today and more than 40 million more Americans would be poor. In addition to mitigating poverty and hardship in the short term, our safety net is also an investment that pays long-term dividends.

For example, children, helped by programs such as the EITC and the Supplemental Nutrition Assistance Program have improved health, are more likely to graduate high school and attend college, and have increased employment and earnings as adults.

A strong safety net is of the utmost importance to us all, given that fully half of Americans will experience at least 1 year of poverty or near poverty at some point during our working years, a figure that rises to a whopping 80 percent if you include unemployment and needing to turn to the safety net.

Unemployment Insurance, Social Security Disability Insurance, and Supplemental Security Income are some of our Nation's most effective antipoverty tools. While the benefits that these programs provide are modest, they are nothing short of a lifeline.

UI replaces less than half of wages for the typical worker, but it protected 5 million hard-hit Americans from poverty in 2009, at the height of the Great Recession, and it prevented 1.4 million foreclosures between 2008 and 2012.

Disability Insurance benefits are so modest that 1.6 million beneficiaries live in poverty. But without DI, more than 4 million disabled worker beneficiaries would be poor.

SSI benefits are even more modest, on average, just $541 per month, half the Federal poverty line for an individual. But for many beneficiaries, these benefits are the difference between having a roof over their heads and being out on the streets. SSI is also particularly vital for families caring for children with the most significant disabilities and severe health conditions.

As we seek to ensure a strong safety net, ensuring program integrity must be a top priority. Thankfully, these programs have rigorous safeguards to root out improper payments and have payment accuracy rates of over 90 percent.

It is important to keep in mind that the vast majority of improper payments are not due to fraud, which comprises just a tiny fraction of overpaid benefits in these programs. We must work together to ensure that payment error rates remain as low as possible, and providing DOL and SSA with adequate administrative funding is of critical importance to achieving that goal.

Unfortunately, appropriators have long deprived these agencies of the resources they need to perform critical program integrity ac-

tivities that pay for themselves many, many times over in the long run.

The Social Security Fraud and Error Prevention Act introduced by Mr. Becerra and Ranking Member Doggett would ensure that SSA has the administrative resources it needs as well as taking other important steps, such as heightening the penalties for defrauding Social Security, keeping evidence from fraud-committing doctors out of the disability determination process with limited good-cause exceptions, putting CDI units in all 50 States and more. These are crucial steps with bipartisan support, and I would urge Congress to swiftly pass these important legislation.

Importantly, we must take a hard look at proposals that aim to enhance program integrity to ensure that they will not lead to unintended consequences. For example, the SAIL Act, which we heard about earlier, raises significant concerns along these lines.

Education is, without question, the key to success, and ensuring that all young people have access to a high-quality education must be a foremost national priority.

However, as currently constructed, this bill would penalize our Nation's most vulnerable youth for experiencing legitimate and understandable interruptions in their schooling. H.R. 918, the DI/UI Double Dip Elimination Act also raises serious concerns along these lines.

Policymakers and elected officials on both sides of the aisle have long shared the goal of helping people with disabilities to work. However, this bill would undermine this bipartisan objective by punishing beneficiaries who do attempt to return to work.

Finally and fundamentally, in addition to keeping fraud and abuse as rare as possible, achieving the goal of program integrity also requires that we address egregious backlogs so that Americans with severe health conditions need not die by the thousands waiting for the benefits that they need, as is currently happening across the United States, that State UI phone systems work properly so that unemployed workers can timely access jobless benefits while seeking to get back on their feet, and that beneficiaries do not get hit with large overpayments, despite doing everything right, due to massive delays in processing work reports. Adequate administrative resources are critical to keeping these basic promises to the American people.

In addition, I discuss in detail in my written testimony several commonsense steps that would strengthen vital programs while also reducing improper payments, such as simplifying Social Security's work rules, improving its earning reporting and recording systems, using computer algorithms to prevent overpayments before they happen instead of just to detect them after the fact, and, finally, reforming SSI's outdated asset limits, which have not budged in nearly 3 decades, as well as the program's income counting rules, which also have not changed since the program was established.

I look forward to working with the members of this subcommittee to ensure program integrity in our safety net. Thank you. And I am happy to take any questions that you may have.

Chairman BOUSTANY. We thank you for your testimony.

[The prepared statement of Ms. Vallas follows:]

Center for American Progress

Testimony Before the U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Human Resources

"Protecting the Safety Net From Waste, Fraud, and Abuse"

Rebecca D. Vallas, Esq.,
Director of Policy, Poverty to Prosperity Program
Center for American Progress

June 3, 2015

Thank you, Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee for the invitation to appear before you today. My name is Rebecca Vallas, and I am the Director of Policy of the Poverty to Prosperity Program at the Center for American Progress.

Without vital programs such as Social Security, nutrition assistance, Unemployment Insurance, and tax credits for working families, America's poverty rate would be twice as high as it is today, and more than 40 million more Americans would be poor.[i] Indeed, using a measure of poverty that takes these and other important programs into account, our safety net cut poverty by more than 40 percent between 1967 and 2012.[ii]

In addition to mitigating poverty and hardship in the short-term, our nation's safety net is an investment that pays long-term dividends. For example, a growing body of research finds that children helped by programs such as the Earned Income Tax Credit, or EITC, and the Supplemental Nutrition Assistance Program, or SNAP, have improved health, do better in school, are more likely to graduate high school and attend college, and have increased employment and earnings in adulthood.[iii] And boosting a child's family income by just $3,000 per year is associated with a 17 percent earnings increase in adulthood.[iv]

A strong safety net is of the utmost importance to all of us as Americans, given that most of us will experience significant economic insecurity at some point during our lives. Indeed, fully half of all Americans will experience at least one year of poverty or near-poverty at some point during our working years. That number rises to 80 percent if you add in those who experience unemployment or need to turn to the safety net for a year or more.[v] While staggering, these statistics should come as little surprise given that common life experiences such as job loss, birth of a child, and illness are among the main causes of poverty and hardship.

As we seek to ensure a strong safety net, ensuring program integrity must be a top priority. Thankfully, programs such as Unemployment Insurance, or UI, Social Security Disability Insurance, or Disability Insurance, and Supplemental Security Income, or SSI, are extremely efficient and have very high payment accuracy rates, exceeding 90 percent. Importantly, just a tiny fraction of improper payments in these programs are due to fraud—the vast majority result from administrative error or lack of understanding of complex program rules. We must work together to ensure that payment error rates remain low—and providing the Department of Labor and the Social Security Administration with adequate administrative funding to conduct necessary program integrity activities is of critical importance to achieving that goal.

In addition to keeping fraud and abuse as rare as possible, achieving the goal of program integrity also requires that we ensure that benefits are paid timely to those who are eligible to receive them. Likewise, simplifying the work rules in

Social Security's disability programs and improving Social Security's earnings reporting process would make it easier for beneficiaries to work up to their capacity—while reducing needless overpayments. Reforming the SSI asset limits that have not budged in nearly three decades, as the SSI Restoration Act would do, would enable beneficiaries to build modest precautionary savings and to plan for the future—while reducing needless but common overpayments that result when beneficiaries have savings that exceed the artificially low limit of just $2,000 for an individual. And ensuring that SSI beneficiaries may participate in medical clinical trials without jeopardizing their SSI or Medicaid eligibility, as the bipartisan Ensuring Access to Clinical Trials Act would do, is another commonsense step that would prevent senseless hardship to individuals with life-threatening illnesses, while also reducing needless overpayments.

Importantly, as we strive to keep improper payments rare, we must take a hard look at proposals that aim to enhance program integrity to ensure that they will not lead to unintended consequences that would weaken critical programs and cause significant hardship for struggling individuals and families. And we must acknowledge the critical importance of providing the agencies that administer these vital programs with the administrative resources they need in order to ensure program integrity.

Unemployment Insurance, Disability Insurance, and Supplemental Security Income provide critical protection to American workers and their families

Unemployment insurance keeps unemployed workers and their families afloat

The Unemployment Insurance, or UI, system was established in 1935 as part of the Social Security Act. UI protects workers and their families against hardship in the event of job loss by temporarily replacing a portion of their lost wages while they seek reemployment. UI is primarily funded by employer contributions via payroll taxes on behalf of their workers. A worker must have worked and paid in to UI in order to receive benefits upon qualifying job loss. She must also have lost a job through no fault of her own, and be "able to work, available to work, and actively seeking work."

UI is a federal-state program with minimal federal requirements and tremendous state flexibility. States are largely free to set and adjust employer tax rates, benefit levels and duration, and eligibility criteria—for instance, what type of work history is required and what sorts of work search requirements an individual must satisfy in order to qualify for benefits. There is thus considerable variation in state UI programs. Historically states have had maximum benefit durations of 26 weeks or longer. However, in a recent trend, eight states have reduced the number of weeks of benefits available to fewer than 26 weeks, with Florida cutting off benefits at just 14 weeks.[vi]

Average UI benefit (2014):
$317 per week
$1,268 per month

Federal poverty level for a family of 3 (2014):
$1,649 per month

The recent economic downturn offers a stark reminder of the critical importance of the UI system. While benefits are modest, averaging just over $300 per week and replacing 46 percent of wages for the typical worker, UI protected more than 5 million Americans from poverty in 2009, when unemployment was at historic heights.[vii] In addition to mitigating poverty and hardship, UI also functions as a powerful macroeconomic stabilizer during recessions, by putting dollars in the pockets of hard-hit unemployed workers who will then go out and spend them in their local communities. This in turn boosts demand, helping to prevent the spread of job loss. Every dollar of UI is estimated to generate $1.55 in economic activity,[viii] and the UI system led to the creation of nearly 2 million jobs at the height of the Great Recession.[ix] Additionally, UI also prevented 1.4 million foreclosures between 2008 and 2012.[x]

Effective as UI is, it fails to reach many unemployed workers in their time of need. As of December 2014, the UI recipiency rate—the share of jobless workers receiving UI benefits—fell to an historic low of 23.1 percent.[xi] Moreover, the United States has one of the least generous UI systems in the developed world. Jobless benefit programs in European nations and most other OECD member countries programs generally serve significantly larger shares of their unemployed populations, provide benefits that replace a significantly higher share of worker's previous earnings, and offer benefits for far longer durations than the United States' UI program.[xii] Additionally, most other countries require employers to offer severance pay, which comes in addition to jobless benefits.

Social Security Disability Insurance and Supplemental Security Income are critical lifelines

Social Security Disability Insurance has been a core pillar of our nation's Social Security system for six decades, offering critical protection when Americans need it most. Today, nearly all Americans—90 percent of covered workers ages 21 to 64—are protected by Disability Insurance in the event of a life-changing disability or illness that prevents substantial work.[xlv] About 8.9 million disabled workers—including more than 1 million veterans—receive Disability Insurance benefits, as do about 149,000 spouses and 1.8 million dependent children of disabled workers.[xlvi] Most Disability Insurance beneficiaries—seven in 10—are age 50 or older, and three in 10 are age 60 or older.[xlvii]

Average SSDI benefit (2015):
$1,165 per month
$13,980 per year

Average SSI benefit (2015):
$541 per month
$6,492 per year

Federal poverty level for an individual (2015):
$980 per month
$11,760 per year

Both workers and employers pay for Social Security through payroll tax contributions on the first $118,500[xlviii] of their earnings each year, of which the bulk goes to the Old Age and Survivors Insurance, or OASI, trust fund, and a small share to the Disability Insurance trust fund. A worker must have worked at least one-fourth of his or her adult years, including at least five of the 10 years before the disability began in order to be "insured,"[xlix][l] and beneficiaries have worked on average 22 years before needing to turn to benefits.[li]

The amount of Disability Insurance a qualifying worker receives in benefits is based on his or her prior earnings. Benefits are modest, typically replacing half or less of a worker's earnings. The average benefit in 2015 is about $1,165 per month—not far above the federal poverty level for an individual.[lii] For more than 80 percent of beneficiaries, Disability Insurance is their main or sole source of income.[liii] Benefits are so modest that many beneficiaries struggle to make ends meet; nearly one in five, or about 1.6 million, disabled-worker beneficiaries live in poverty. But without Disability Insurance, this figure would more than double, and more than 4 million beneficiaries would be poor.[liv]

Signed into law by President Nixon in 1972, Supplemental Security Income, or SSI, serves as another core component of our nation's Social Security system, providing critical financial support to Americans with very limited resources who are elderly or have significant disabilities but who lack a sufficient work history to qualify for Social Security. SSI is a means-tested program, and in order to qualify, an individual must have both very low income and assets (the asset limit is $2,000 for an individual and $3,000 for a couple). About 2.1 million low-income seniors age 65 or older receive SSI, as well as 4.9 million non-elderly adults and just under 1.3 million children with significant disabilities or severe illnesses.[lv][lvi] It is important to note that many SSI beneficiaries, while lacking the necessary work history to be insured for Social Security, have worked and paid into the system but may simply lack the requisite number of quarters or the recent work history that is needed.

The maximum SSI benefit in 2015 is $733 for an individual, but most beneficiaries receive significantly less. The monthly benefit averaged just $541 per month[lvii][lviii]—well below the federal poverty line for an individual—and SSI on its own is not enough to protect someone from poverty. But for the seniors and persons with significant disabilities and severe illnesses who are helped by SSI, it is nothing short of a lifeline, as most have no other source of income.

The modest but vital assistance that these programs provide makes it possible for beneficiaries to live independently, keep a roof over their heads and food on the table, and pay for needed, often life-sustaining, medications. Without these programs, many beneficiaries would be homeless or institutionalized as few have access to alternative sources of support.[lix]

Eligibility criteria are stringent and only workers with the most serious disabilities and illnesses qualify

In order to qualify for Social Security disability benefits, an individual must meet the Social Security Administration's strict disability standard, which is used for both Disability Insurance and SSI: A disabled worker must be "unable to engage in substantial gainful activity," or SGA—defined as earning $1,090 per month for 2015—"by reason of any

medically determinable physical or mental impairment which can be expected to result in death or last for a continuous period of not less than 12 months."[xxv] In order to meet this rigorous standard, a worker must not only be unable to do his or her past jobs, but also—considering his or her age, education, and experience—any other job that exists in significant numbers in the national economy at a level where he or she could earn even $270 per week.[xxvi]Proving eligibility requires extensive medical evidence from one or more "acceptable medical sources" (licensed physicians, specialists, or other approved medical providers) documenting the applicant's severe impairment or impairments and resulting symptoms.[xxvii]

Under this stringent standard, fewer than 4 in 10 of applications are approved even after all levels of appeal.[xxviii]Many wait a year—and in many cases much longer—before receiving needed benefits. Underscoring the strictness of the disability standard, thousands of applicants die each year during the eligibility determination process.[xxix] Of those who live long enough to receive benefits, one in five Disability Insurance beneficiaries die within five years of being approved[xxx] and beneficiaries have death rates three to six times higher than other people of their age.[xxxi]

The OECD describes the U.S. disability benefit system, along with those of Canada, Japan, and South Korea, as having "the most stringent eligibility criteria for a full disability benefit, including the most rigorous reference to all jobs in the labor market."[xxxii] Social Security disability benefits are also considerably less generous than most other countries' disability programs. With Disability Insurance benefits replacing 42 percent of previous earnings for the median earner, and SSI benefits at just three-quarters of the federal poverty line for an individual, the United States is ranked 30th out of 34 OECD member countries in terms of replacement rates.[xxxiii] Many countries' disability benefit programs replace 80 percent or more of previous earnings.[xxxiv]

Social Security disability beneficiaries live with a diverse range of severe impairments and health conditions, such as chronic heart failure, end stage renal disease, multiple sclerosis, advanced cancers, significant intellectual disabilities, and severe mental illness. And while SSA data categorize beneficiaries according to their "primary diagnosis," many beneficiaries—particularly those with mental and musculoskeletal impairments[xxxv]—have multiple serious conditions.

Few beneficiaries are able to work at all, but for those whose conditions improve, the Social Security disability programs contain strong work incentives and supports

Social Security Administration policies include strong work incentives and protections to encourage beneficiaries to attempt to return to work. Disability Insurance beneficiaries may earn up to SGA—$1,090 per month in 2015—without losing any benefits. Those able to earn more than SGA for more than 12 months enter a nearly three-year "extended period of eligibility," during which they receive a benefit only in the months in which they earn less than SGA.[xxxvi] Thereafter, if at any point in the next five years their condition worsens and they are not able to continue working above that level, they may return to benefits without having to repeat the lengthy disability determination process.[xxxvii] These policies are extremely helpful to beneficiaries with episodic symptoms or whose conditions improve over time.

SSI beneficiaries are encouraged to return to work as well. Their benefits are reduced based on their earnings—after the first $85 of earnings each month, which is not counted against the benefit—but only by $1 for every $2 of earnings. Beneficiaries who are able to do some work will thus always be better off with both earnings and a reduced benefit than just the benefit alone.

Yet, unsurprisingly given how strict the Social Security disability standard is, most beneficiaries live with such debilitating impairments and health conditions that they are unable to work at all, and most do not have earnings. According to a recent study using pre-recession data, just 16.9 percent of beneficiaries did any work during the year.[xxxviii] The vast majority of those who worked earned very little, and just 2.9 percent earned more than $10,000 during the year—hardly enough to support themselves.[xxxix]

Notably, if a significant share of Disability Insurance beneficiaries were able to work, one would expect a sizeable percentage to take advantage of the previously described work incentives in order to maximize their earnings without losing benefits. But beneficiaries' work patterns indicate otherwise. Less than one-half of one percent of beneficiaries maintain a level of earnings just below the substantial gainful activity level.[xl] Further underscoring the strictness of the Social Security disability standard, even disabled workers who are denied Disability Insurance benefits exhibit extremely low work capacity afterward. A recent study of workers denied Disability Insurance found that just one in four were able to earn more than the substantial gainful activity level post-denial.[xli]

Growth in Disability Insurance was expected and mostly the result of demographic and labor market shifts

As long projected by Social Security's actuaries, the number of workers receiving Disability Insurance has increased over time, due mostly to demographic and labor-market shifts. According to recent analysis by Social Security Administration researchers, the growth in the Disability Insurance program between 1972 and 2008 is due almost entirely (90 percent) to the Baby Boomers aging into the high-disability years of their 50s and 60s, the rise in women's labor-force participation, and population growth.[xiii] The increase in the Social Security retirement age has been another significant factor. Importantly, as the Baby Boomers have begun to age into retirement, the program's growth has already leveled off and is projected to decline further in the coming years as Boomers continue to retire.[xiii]

Moreover, it comes as no surprise—and presents no crisis—that action is needed to address Disability Insurance's finances by late 2016. In 1995, Social Security's actuaries projected that the Disability Insurance trust fund would be able to pay all scheduled benefits until 2016, the OASI trust fund until 2031, and the combined trust funds until 2030.[xiv] The projections in the 2014 Social Security Trustees Report look remarkably similar, with Disability Insurance expected to remain solvent until 2016, OASI until 2035, and the combined funds until 2033.[xv] Furthermore, the present situation is nothing new. Since Disability Insurance was established in 1956, Congress has repeatedly rebalanced the trust funds to keep both on sound footing amid demographic shifts and other changes. Rebalancing—by adjusting the share of payroll tax contributions that go into each fund—has occurred in a bipartisan manner repeatedly and whenever needed over the years, with additional revenues being directed to the OASI fund about half the time, and to the Disability Insurance fund about half the time.[xvi] Congress has never allowed a drop in scheduled benefits to occur. It should again enact a modest, temporary reallocation to equalize the solvency of the funds, as called for in the President's FY 2016 budget.

SSI provides a vital lifeline for children with significant disabilities and severe illnesses

Along with Medicaid and the Individuals with Disabilities Education Act, SSI serves as a central pillar of our nation's current system of family-centered care for children with significant disabilities and severe health conditions. In this system, the primary responsibility for the wellbeing of a disabled child rests with the child's parents and family. Together, these supports play a fundamental role in making it possible for children with disabilities to live at home with their families and in their communities. In the United States, about 6.6 million—or 9 percent—of school-age children have activity limitations resulting from one or more chronic health conditions.[xvii] But just about 1.3 million—or 1.6 percent—of U.S. children receive SSI. The vast majority of children with disabilities do not qualify for SSI either because their disabilities do not meet Social Security's strict standard or their families do not meet the program's financial eligibility criteria.

In order to qualify for SSI, a child must have one or more medically determinable physical or mental impairments resulting in "marked and severe" functional limitations; he or she must also live in a family with very low income and less than $3,000 in assets. According to a 2012 GAO report, SSA has consistently denied a majority of children's applications for SSI over the past decade using this strict definition of disability.[xviii] The maximum monthly benefit is $733 for 2015, but most children receive less; SSI benefits to children average $653 per month. SSI helps families meet the additional costs of raising a child with a significant disability; partially offsets lost parental income due to caring for a disabled child; helps families provide basic necessities to care for a disabled child at home instead of in an institution; and assists in providing children with disabilities with a stable, secure home environment and the opportunity for integration into community life, including school as children and work as adults. SSI program rules contain strong work and education supports and incentives to encourage youth with disabilities receiving SSI to gain early work experiences such as internships and summer jobs, to complete high school, and to pursue higher education and training.[xix]

We must work together to ensure program integrity and strengthen vital programs

Any instance of fraud or abuse is one too many, and ensuring the integrity of vital programs must be a top priority. While extremely rare, instances of fraud or abuse tend to receive significant attention in the media and risk diminishing the public's trust in and support for critically important programs. However, in addition to keeping fraud and abuse as rare as possible, achieving the goal of program integrity also requires, for example, that we ensure that benefits are paid timely to those who are eligible to receive them; that backlogs are minimized so that individuals with severe health conditions do not die by the thousands waiting for the benefits they need[1]; that state UI phone systems work properly so that

unemployed workers can timely access jobless benefits while seeking to get back on their feet; that beneficiaries do not get hit with large overpayments despite doing everything right and faithfully reporting their earnings; and that program rules are not stuck in the past, preventing beneficiaries from having even modest savings. Moreover, as Congress seeks to ensure program integrity, it is crucial to acknowledge the importance of providing the agencies that administer these vital programs with the administrative resources they need in order to prevent improper payments and conduct critical program integrity work.

Improper payment rates are low and the vast majority are not due to fraud

The states are primarily responsible for program integrity in the UI system, but the Department of Labor, or DOL, works aggressively with states to minimize improper payments. States have two primary program integrity tools: Benefit Payment Control, or BPC, and Benefit Accuracy Measurement, or BAM. Each state has a BPC unit dedicated to preventing, detecting, investigating, and recovering improper payments. Additionally, state BAM units are charged with conducting rigorous investigations of a random sample of claims to measure the accuracy of UI benefit payments. BAM investigations serve as the basis for estimates of UI improper payments.[ii] DOL has an array of additional program integrity activities underway, such as increased use of data analytics; development of an automated data exchange to promote the receipt of timely information from employers to verify reasons for separation and earnings upon returning to work; and the recent establishment of the UI Integrity Center of Excellence in cooperation with the New York State Department of Labor.[iii]

In 2014, UI's net payment accuracy rate was over 91 percent.[iii] Excluding improper payments due to states' increasingly complex work search requirements, the net payment accuracy rate was over 92 percent.[iv] Importantly, the vast majority – 75 percent – of improper payments are not due to fraud, and overpayments due to fraud equal 3.19 percent of all benefits paid.[v] Moreover, the UI system is very effective at recovering improper payments: Two-thirds of established overpayments were recovered in 2013.[vi] Notably, the rate of improper payments is dwarfed by the share of unemployed workers who are eligible for but do not collect UI benefits. According to analysis published by the Federal Reserve Bank of St. Louis using DOL data, roughly half of jobless workers eligible for UI claimed benefits. If all unemployed workers eligible to collect UI were to do so, the additional expenditures from these "unclaimed benefits" in 2009, near the end of the Great Recession, would have been nearly seven times that year's rate of improper payments.[vii]

The Social Security Administration, or SSA, operates similarly rigorous program integrity activities. For example, SSA conducts reviews of at least half of all allowances at the initial and reconsideration levels for both Disability Insurance and SSI disability benefits, before benefits are paid. SSA maintains multiple levels of quality review for its state Disability Determination Services, or DDSs, and operates an Office of Quality Performance, or OQP, which conducts quality assurance reviews of samples of initial and reconsideration determinations. The SSA Office of Disability Adjudication and Review, or ODAR, operates a Quality Review initiative, which reviews samples of favorable Administrative Law Judge, or ALJ, decisions before benefits are paid, as well as samples of favorable ALJ decisions after the fact to assess compliance with agency policy. SSA is required to conduct continuing disability reviews, or CDRs, in all cases where improvement in a beneficiary's condition is considered possible. Additionally, SSA's Office of the Inspector General, or OIG, operates an array of activities to detect and root out potential fraud. For example, SSA and the OIG jointly run the Cooperative Disability Investigations program, with CDI units in more than 25 states investigating individual disability applicants and beneficiaries, as well as third parties, for potential fraud.

The SSI overpayment accuracy rate in FY 2014 was 93 percent. The leading causes of SSI improper payments are financial accounts – i.e. where an applicant or recipient exceeds the allowable resource limit of $2,000 for an individual or $3,000 for a couple – and wages.[viii] The Disability Insurance overpayment accuracy rate was even higher, at 99 percent. As with UI, the vast majority of overpayments in Social Security's programs are not due to fraud. For example, as discussed below, delays in processing beneficiaries' earnings reports and adjusting benefits accordingly can result in substantial overpayments despite beneficiaries having faithfully reported their earnings.

Adequate administrative funding is needed to ensure program integrity

State UI administrative funding is paid for by the Federal Unemployment Tax Act, or FUTA, a 0.6 percent federal tax that employers pay on the first $7,000 of wages (or $42 per worker) each year. Despite this dedicated source of funding, the allocations that the states receive to administer their UI programs has been eroding for the past two decades. As the National Association of State Workforce Agencies noted in a 2013 report:

> States argue that even in good economic times they do not receive enough administrative funds to administer their programs as well as they would like. Since 1995, the federal government has not adjusted grants to states for administration of their UI programs for inflation (except for the one percent increase in fiscal year 2010). When adjusted for inflation and normalized at a base two million average weekly insured unemployment level, base funding for State UI Administration is at its lowest level since 1986.[liv]

Insufficient administrative funding has resulted in staffing shortages at state agencies and substantial deterioration in customer service. For example, when Pennsylvania's Department of Labor closed a UI Claims Center in 2012, thousands of jobless workers trying to access their needed benefits via the state's phone system were confronted with endless busy signals—literally for days on end.[lv] Similarly catastrophic systems breakdowns have occurred across the country.[lvi] And insufficient administrative funding contributes directly to improper payments.[lvii]

SSA's administrative costs are less than 1.3 percent of the benefits it pays out each year.[lviii] In recent years, SSA's administrative budget has been significantly underfunded. Congress appropriated over $1 billion less for SSA's Limitation on Administrative Expenses (LAE) than the President's request between FY 2011 to FY 2013. Additionally, in FY 2012 and 2013 Congress appropriated nearly half a billion dollars less for the agency's program integrity activities (such as continuing disability reviews and SSI redeterminations) than the Budget Control Act of 2011 authorized.[lxiv] As a result, during a time of increasing workload due to the Baby Boomers entering retirement and their disability-prone years, the agency lost over 11,000 employees—a 13 percent drop in its workforce—hampering the agency's ability to serve the public and keep up with vital program integrity activities.[lxv] In a positive step, the FY 2014 budget bill provided the agency with full funding at the FY 2014 Budget Control Act levels for program integrity activities.[lxvi] But in FY 2015, SSA received $218 million less for LAE than the President's request.[lxvii] This directly translates into diminished capacity for program integrity efforts. The President's FY 2015 budget request would have allowed SSA to complete 98,00 more continuing disability reviews and 367,000 more SSI redeterminations during this fiscal year.[lxviii]

SSA requires sufficient administrative funding in order to make timely and accurate benefit payments and to serve the public. Adequate resources support claims processing and disability determinations at the initial levels so that the right decision can be made at the earliest point in the process and needless appeals can be avoided. Additionally, adequate resources are needed to address the tremendous backlogs that have emerged at the ALJ hearing level. The average wait time for an ALJ hearing is well over a year—and closer to two years in many hearing offices—and as noted previously, thousands of applicants die each year waiting for much-needed benefits.[lxix] And callers encounter frequent busy signals and lengthy wait times to get through to a call center representative on SSA's 1-800 number.

Adequate administrative funding is also required for the agency to ensure that benefits are paid to the right person, in the right amount, at the right time. For example, SSA reports that the average processing time for beneficiaries' earnings reports is 270 days, which results in large and preventable overpayments, and can be tremendously disruptive to beneficiaries who are all of a sudden—through no fault of their own—hit with an overpayment that they are required to repay. Adequate resources are also needed to perform continuing disability reviews, which are estimated to save $9 in benefits for every $1 spent on reviews; the agency currently has a backlog of nearly 1.3 million reviews due to inadequate funding.[lxx] Providing the agency with adequate administrative funding to keep up with its workload and conduct critical program integrity activities—as the Social Security Fraud and Error Prevention Act championed by Rep. Becerra and Ranking Member Doggett would do—should be a commonsense, bipartisan step.

Commonsense steps would strengthen programs and reduce improper payments

In addition to providing the agencies charged with administering these programs with adequate administrative resources, there are several commonsense steps that would strengthen and simplify vital programs while also reducing improper payments. For instance, simplifying the work rules in Social Security's disability programs would make it easier for beneficiaries to work up to their capacity—while reducing needless overpayments. Several proposals for a benefit offset in the Disability Insurance program merit consideration, such as the Work Incentive Simplification Proposal, or WISP, as well as the benefit offset proposal outlined by the Consortium for Citizens with Disabilities.[lxi]

Additionally, improving Social Security's earnings reporting and recording system, including providing for online wage reporting for both Disability Insurance and SSI beneficiaries, would also help to prevent overpayments stemming from failure to adjust benefits based on beneficiaries' earnings. And SSA should consider using its continuing disability review enforcement model to help prevent overpayments before they happen. Currently, SSA uses a computer algorithm to determine which cases should be prioritized for review. SSA should also use it to identify the beneficiaries most in need of counseling about their benefits, to prevent overpayments rather than just to detect them after the fact.

Furthermore, reforming SSI's outdated asset limits—which have scarcely budged since the program's establishment in 1972—would enable beneficiaries to build modest precautionary savings and to plan for the future, while reducing the needless but common overpayments that result when beneficiaries have savings that exceed the artificially low limit of just $2,000 for individuals and $3,000 for couples (or disabled children living with their families). In recognition of the need to reform SSI's counterproductive asset limits, the SSI Restoration Act would raise the asset limits to $10,000 for individuals and $15,000 for couples (and disabled children living with their families), and index the limits to inflation. Education and retirement savings should also be excluded from counting against the SSI asset limit, to enable recipients to access education and skills development and to plan for a modest retirement.[lxii] The Achieving a Better Life Experience, or ABLE Act, which was enacted last year with overwhelming bipartisan support in both the House and Senate, is evidence of the widespread bipartisan support that exists for enabling youth and adults with disabilities to build savings.

Worth noting, the SSI Restoration Act would also update key components of how the program counts beneficiaries' income for purposes of determining the amount of their SSI benefit, which would further promote work while reducing overpayments.[lxiii] And the bipartisan Ensuring Access to Clinical Trials Act would ensure that SSI beneficiaries may participate in medical clinical trials without jeopardizing their SSI or Medicaid eligibility. This legislation would prevent senseless hardship to individuals with life-threatening illnesses, while also reducing needless overpayments.

Program integrity measures must take care to avoid unintended consequences

Importantly, as we strive to keep improper payments rare, we must take a hard look at proposals that aim to enhance program integrity to ensure that they will not lead to unintended consequences that would weaken critical programs and cause great hardship for struggling individuals and families. Several of the proposals being discussed today raise significant concerns along these lines.

H.R. 2511 (the "SAIL Act") takes the wrong approach

For example, H.R. 2511, the School Attendance Improves Lives, or SAIL Act, the stated purpose of which is to boost school attendance by youth with disabilities receiving SSI, raises significant concerns. Education is the key to success, and ensuring that all young people have access to a high-quality education must be a foremost national priority. However, the SAIL Act would penalize our nation's most vulnerable youth—those with significant disabilities and severe health conditions—for experiencing interruptions in their schooling. Youth who receive SSI may experience school absences for many legitimate reasons, and could experience significant hardship due to loss of benefits.

Many SSI beneficiaries are too sick for full-time school. According to the National Survey of SSI Children and Families, 14 percent of SSI beneficiaries ages 13 to 17 were hospitalized at least once in the prior year, 4.9 percent were hospitalized three or more times, 36.9 percent made at least one visit to an emergency room, and 39.3 percent had at least

five doctor's appointments.[lxxiv] When these obligations are combined with speech, physical, occupational, respiratory, mental health, and other types of therapy, along with times that a child is too fatigued, ill, or in pain to attend school, it is not surprising that children with disabilities may incur absences from school. Indeed, many SSI child beneficiaries are terminally ill, and school attendance must take a backseat to medical and palliative care. In 2013, the SSI benefits of 4,484 children—nearly 7 percent of the SSI childhood caseload—were terminated because the child died.[lxxv]

Moreover, homelessness and poverty can lead to interruptions in school enrollment and attendance gaps. Households in poverty—such as families of children who receive SSI—experience extremely high rates of geographic mobility and a high risk of homelessness.[lxxvi] Gaps in school attendance may occur due to frequent moves, inability to meet enrollment requirements (proof of residency, legal guardianship, health records, etc.), lack of transportation, and the need to put in place services and supports under an Individualized Education Plan following a move to a new school district. And while the number of youth ages 16 and 17 who are homeless and receive SSI is unknown, in the 2012-2013 school year 16 percent of homeless students in public schools received Individuals with Disabilities Education Act (IDEA) services.[lxxvii]

Additionally, students with disabilities are substantially more likely to be bullied than their peers without disabilities.[lxxviii] Children and youth who are bullied are more likely to have school absences, and in some cases parents may seek alternate placements in different schools in order to keep their children safe, potentially leading to gaps in school enrollment.[lxxix]

Furthermore, students with disabilities are disproportionately likely to be suspended or expelled from school. According to UCLA's Civil Rights Project, 13 percent of children with disabilities were disciplined with at least one out-of-school suspension in the 2009-10 academic year—nearly twice the rate of children without disabilities.[lxxx] More than 6 percent of children with disabilities were suspended more than once, and suspension rates are even higher among children of color with disabilities. The SAIL Act would increase the financial burdens that disability and school discipline place on struggling families by removing SSI when a student is suspended, whether the reason for the suspension is just or unjust.

These are just a few examples of why removing a disabled child's needed SSI benefits due to school absences is the wrong approach and would lead to significant if unintended hardship for youth with disabilities and their families. Rather than penalizing students with disabilities for school absences, policymakers should focus on enhancing and promoting SSI's work and education supports, informed by the results of the Youth in Transition Demonstration and the PROMISE Initiative, both of which are currently exploring options to more effectively support transition-age youth receiving SSI. Additionally, policymakers should prioritize expanding access to vocational rehabilitation for transition-age youth, by enabling youth under age 18 to access VR services to allow for a seamless transition from special education to vocational programs, and boosting investment in VR to address lengthy wait lists.[lxxxi]

H.R. 918 (the "Double Dip Elimination Act") would reduce disabled workers' financial security and penalize work attempts

Policymakers and elected officials on both sides of the aisle have long shared the goal of helping people with disabilities work. However, H.R. 918, the Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act, which would cut Disability Insurance benefits for individuals who attempt to return to work, represents a step in the wrong direction that would undermine this bipartisan objective. Proponents of this measure say it is needed to prevent "double dipping." However, cutting benefits for disability beneficiaries who lose a job through no fault of their own and must turn to UI to partially replace their lost wages would punish them for attempting to return to work and push them and their families deeper into poverty.

As detailed above, Social Security's disability programs contain strong work supports and incentives for those who may be able to return to work as their conditions improve. As a result, disability beneficiaries may experience job loss that would legitimately enable them to qualify for UI. If beneficiaries attempt to return to work and subsequently get laid off from their part-time jobs, they may qualify for UI just like any other similarly situated worker. However, H.R. 918 and other similar proposals would punish disability beneficiaries for attempting to return to work—as they are encouraged by law to do—by cutting their Social Security benefits or by putting them at risk of losing their eligibility for benefits entirely.

As noted previously, Social Security disability benefits are extremely modest. Disability Insurance benefits average $1,165 per month, just over the federal poverty line, and 1.6 million disabled workers receiving Disability Insurance—or one in five—already live in poverty. Without Disability Insurance, more than 4 million current disabled-worker beneficiaries would be poor.[lxxvi] According to the Government Accountability Office, for the less than 1 percent of individuals served by Disability Insurance or UI who qualify for benefits under both programs, the average quarterly combined benefit in FY 2010 was $3,300—or just $1,100 per month.[lxxvii][lxxviii] These modest benefits provide nothing short of a lifeline for disabled workers and their families when they need it most. Yet the cuts proposed by H.R. 918 would push disabled workers and their families into or deeper into poverty, jeopardizing their ability to keep a roof over their heads and afford needed, often life-sustaining medications.

Finally, Americans must work and pay into the UI system in order to receive benefits in the event of a qualifying job loss. Yet the cuts proposed by H.R. 918 single out disability beneficiaries for second-class treatment under the UI program, denying them the protection they earned and penalizing them for trying to return to work. Disability beneficiaries who lose a job and qualify for unemployment insurance should not be treated differently from other workers; they should be permitted to access the modest benefits they have worked hard to earn.

Supporting work by people with disabilities has long been a bipartisan priority. But by cutting vital benefits for disability beneficiaries who seek to return to work and lose a job through no fault of their own, H.R. 918 marks a significant step backward. In order to give people with disabilities a fair shot at employment, policymakers should focus on removing barriers instead of cutting already meager Social Security disability benefits. For example, raising the minimum wage, strengthening the Earned Income Tax Credit for workers without qualifying children, ensuring paid leave and paid sick days, expanding Medicaid in the nearly two-dozen states that have declined to do so, and increasing access to long-term services and supports would allow more people with disabilities to enter and remain in the workforce.[lxxix]

H.R. 2504 (the "CUFF Act") would be a step backward

The Social Security Act prohibits individuals who are fleeing to avoid law enforcement from receiving benefits under any of Social Security's programs. Previously, SSA implemented this provision of the Act by suspending or denying Social Security benefits anytime there was an outstanding arrest warrant, regardless of whether or not the individual had any knowledge of the charges against them. SSA frequently suspended or denied benefits in cases where warrants were so old and so minor that the law enforcement entity that had issued the warrant had no intention of pursuing it. SSA also frequently denied benefits in cases of mistaken identity—for example, Rosa Martinez, a 52-year-old disabled woman who in 2008 was notified that she would lose her disability benefits because of a 1980 arrest warrant for a drug offense in Miami, Florida. (Ms. Martinez had never been arrested in her life, had never used illegal drugs, and had never even been to Miami. She was also 4 foot 10, fully eight inches shorter than the individual identified in the warrant at a height of 5 foot 6.)[lxxxv] After two class action lawsuits challenged SSA's policy, it was found to be overbroad and in violation of the Social Security Act. SSA now appropriately suspends or denies benefits only in cases where an individual is actually fleeing to avoid law enforcement. The CUFF Act would mark a return to a failed, overbroad policy.

Conclusion

As we seek to ensure a strong safety net, ensuring program integrity must be a top priority. Thankfully, the UI, Disability Insurance, and SSI programs are extremely efficient and have very high payment accuracy rates, exceeding 90 percent. We must work together to ensure that payment error rates remain low—and providing DOL and SSA with adequate administrative funding is of critical importance to achieving that goal. Likewise, steps such as simplifying the work rules in Social Security's disability programs, improving Social Security's earnings reporting process, harnessing predictive modeling to prevent overpayments before they happen, and reforming SSI's asset limits would strengthen Social Security's programs while reducing needless overpayments. Importantly, as we strive to keep improper payments rare, we must take a hard look at proposals that aim to enhance program integrity to ensure that they will not lead to unintended consequences that would weaken critical programs and cause significant hardship for struggling individuals and families. And we must acknowledge the critical importance of providing the agencies that administer these vital programs with the administrative resources they need in order to ensure program integrity.

Endnotes

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[ii] Christopher Wimer et al., "Trends in Poverty with an Anchored Supplemental Poverty Measure," (December 2013), available at http://socialwork.columbia.edu/sites/default/files/file_manager/pdfs/News/Anchored%20SPM.December7.pdf; see also Yonatan Ben-Shalom et al., "An Assessment of Antipoverty Programs in the United States," *The Oxford Handbook of the Economics of Poverty* (Nov. 2012), available at http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780195393781.001.0001/oxfordhb-9780195393781-e-22.

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[x] Joanne W. Hsu et al., "Positive Externalities of Social Insurance: Unemployment Insurance and Consumer Credit" (NBER: July 2014), available at http://www.nber.org/papers/w20353.pdf.

[xi] Rick McHugh and Will Kimball, *How Low Can We Go? State Unemployment Insurance Programs Exclude Record Numbers of Jobless Workers* (Economic Policy Institute, March 2015), available at http://www.epi.org/publication/how-low-can-we-go-state-unemployment-insurance-programs-exclude-record-numbers-of-jobless-workers/.

[xii] For example, France's equivalent program replaces 67 percent of wages for the typical worker; Canada's, 63 percent; and the Netherlands', 70 percent. The Netherlands provides jobless benefits for up to 38 months, and Germany up to 18 months. See Organisation for Economic Cooperation and Development, *OECD Reviews of Labour Market and Social* Policies (2010); see also Wayne Vroman and Vera Brustenstev, *Unemployment Compensation Around the World: A Comparative Analysis* (2005).

[xiii] U.S. Social Security Administration, "Fact Sheet on the Old-Age, Survivors, And Disability Insurance Program," available at http://www.ssa.gov/OACT/FACTS/ (last accessed June 1, 2015). Some state and local employees are not covered for Social Security. For a discussion of who is and is not covered, see Alicia H. Munnell, "Mandatory Social Security Coverage of State and Local Workers: A Perennial Hot Button" (June 2005), available at http://crr.bc.edu/wp-content/uploads/2005/06/ib_32.pdf.

[xiv] Ibid. For veterans figure, see Michele Stegman Bailey and Jeffrey Hemmeter, "Characteristics of Noninstitutionalized DI and SSI Program Participants, 2010 Update," available at http://www.ssa.gov/policy/docs/rsnotes/rsn2014-02.html.

[xv] Upon reaching full retirement age, DI beneficiaries convert to Social Security retirement benefits.

[xvi] The payroll tax cap is adjusted annually. It is $118,500 for 2015. Social Security Administration, "Contribution and Benefit Base," available at http://www.ssa.gov/oact/COLA/cbb.html#Series.

[xvii] National Academy of Social Insurance, "What is Social Security Disability Insurance?", available at http://www.nasi.org/learn/socialsecurity/disability-insurance (last accessed June 2015).

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[xix] U.S. Social Security Administration, Monthly Statistical Snapshot, April 2015, available at http://www.ssa.gov/policy/docs/quickfacts/stat_snapshot/.

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[xxi] Authors' calculation based on ibid.

[xxii] Social Security Administration, Monthly Statistical Snapshot, April 2015.

[xxiii] $541 was the average monthly SSI benefit for SSI beneficiaries overall in April 2015. The average SSI benefit for beneficiaries age 65 and older was $432 per month; for those ages 18 to 64, $559 per month; and for child beneficiaries under age 18, $653 per month. Social Security Administration, Monthly Statistical Snapshot, April 2015.

[xxiv] For example, just one in three private-sector workers has employer-provided long-term disability insurance, and plans are often less adequate than Social Security. Coverage is especially scarce for low-wage workers: Just 7 percent of workers making less than $12 an hour have employer-provided disability insurance. Bureau of Labor Statistics, "Table 16. Insurance benefits: Access, participation, and take-up rates, civilian workers, National Compensation Survey, March 2012," available at http://www.bls.gov/ncs/ebs/benefits/2012/ownership/civilian/table12a.htm (last accessed June 2015).

[xiv] This is the statutory definition of disability set forth in the Social Security Act, 42 U.S.C. 416 (i)(1). Substantial gainful activity is set at a different level for individuals who are blind. For 2015, this amount is $1,820. Social Security Administration, Substantial Gainful Activity, available at http://www.socialsecurity.gov/oact/cola/sga.html (last accessed June 2015).

[xv] *Code of Federal Regulations*, title 20, sec. 416 (960)

[xvi] Evidence from other providers, such as nurse practitioners or clinical social workers, is not enough to document a worker's medical condition. Statements from friends, loved ones, and the applicant are not considered medical evidence and are not sufficient to establish eligibility.

[xvii] U.S. Social Security Administration, *Annual Statistical Report on the Social Security Disability Insurance Program, 2013* (2014), table 60, available at http://www.ssa.gov/policy/docs/statcomps/di_asr/2013/sect04.pdf and *SSI Annual Statistical Report, 2013* (2014), table 69, available at http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2013/sect10.pdf.

[xviii] Estimates range as to how many claimants die while awaiting benefits. A 2008 CBS News investigation reported that "over the last two years, at least 16,000 people fighting for disability benefits died while awaiting a decision." CBS News, "Disabled and Waiting," January 14, 2008, available at http://www.cbsnews.com/news/disabled-and-waiting/. The *Wall Street Journal* reported in a 2011 article that 15,043 claimants died during the application process between 2005 and 2011. Damien Paletta and Dionne Searcey, "Growing Case Backlog Leaves the Terminally Ill Waiting," *Wall Street Journal*, December 28, 2011, available at http://online.wsj.com/news/articles/SB10001424052970204296804577121401602777764?KEYWORDS=social+security&mg=reno64-wsj&url=http://online.wsj.com/article/SB10001424052970204296804577121401602777764.html%3FKEYWORDS%3Dsocial%2Bsecurity.

[xix] U.S. Social Security Administration, Office of the Chief Actuary, "Death Experience by Select Age and Duration," Table 13; see also Kathy A. Ruffing, "Social Security Disability Insurance Benefits are Vital to Workers with Severe Impairments" (Washington: Center on Budget and Policy Priorities, 2012), available at http://www.cbpp.org/files/8-9-12ss.pdf.

[xx] Kathy Ruffing, "No Surprise: Disability Beneficiaries Experience High Death Rates," Center on Budget and Policy Priorities, April 4, 2013, available at http://www.offthechartsblog.org/no-surprise-disability-beneficiaries-experience-high-death-rates.

[xxi] Organisation for Economic Co-operation and Development, "Sickness, Disability, and Work: Breaking the Barriers: A Synthesis of Findings across OECD Countries," (2010), available at http://ec.europa.eu/health/mental_health/eu_compass/reports_studies/disability_synthesis_2010_en.pdf.

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[xxv] Social Security Disability Insurance beneficiaries remain eligible for Medicare for seven years no matter how much they earn and irrespective of whether they continue to receive cash benefits through Social Security Disability Insurance. See U.S. Social Security Administration, "The Red Book – A Guide to Work Incentives," available at http://www.ssa.gov/redbook/eng/ssdi-only-employment-supports.htm#a0=3.

[xxvi] They may return to benefits via a process called "expedited reinstatement," which involves a medical review to ensure that the individual meets the Social Security disability standard, but spares the individual from needing to repeat the entire application and disability determination process. See James R. Sheldon, "Expedited Reinstatement of Social Security or SSI Disability Benefits" (Ithaca, NY: Cornell University, 2006), available at http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1225&context=edicollect.

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one-half of one percent of beneficiaries who maintain earnings at this level are doing so intentionally. Jody Schimmel, David C. Stapleton, and Jae Song, "How Common is 'Parking' Among Social Security Disability Insurance Beneficiaries? Evidence from the 1999 Change in the Earnings Level of Substantial Gainful Activity," *Social Security Bulletin*, Vol. 71, No. 4, 2011.

[xlii] Nicole Maestas, Kathleen J. Mullen, and Alexander Strand, "Does Disability Insurance Receipt Discourage Work? Using Examiner Assignment to Estimate the Causal Effects of SSDI Receipt." Working Paper 2010-241 (University of Michigan Retirement Research Center, 2012), Figure A-2, available at http://www.mrrc.isr.umich.edu/publications/papers/pdf/wp241.pdf.

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[xliv] U.S. Social Security Administration Chief Actuary Stephen Goss, "The Financing Challenges Facing the Social Security Disability Insurance Program," Testimony before the House Committee on Ways and Means, Subcommittee on Social Security, March 14, 2013.

[xlv] The Board of Trustees, Federal OASI and Federal DI Trust Funds, *The 1995 Annual Report of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Fund* (1995), available at http://www.ssa.gov/history/reports/trust/1995/trjif.html.

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[i] See sources cited supra note xxix.

[ii] See U.S. Dept. of Labor, Office of the Inspector General, *Inspector General's Top Management Challenges Facing the Department of Labor* (November 2014), available at https://www.oig.dol.gov/public/topchallenges/2014.pdf.

[iii] See ibid for a full discussion of DOL's program integrity activities and www.dol.gov/dol/maps/Strategies.htm for a summary of the agency's strategic plan to address improper payments.

[iii] In 2014, the total UI improper payment rate, not taking into account recovered payments, was 11.57 percent. After counting recovered overpayments, the net improper payment rate was 8.65 percent. U.S. Dept. of Labor, Office of the Inspector General, *Inspector General's Top Management Challenges Facing the Department of Labor.*

[iv] In recent years, as states have increased the complexity and stringency of their work search requirements, improper payments due to work search errors have become the leading cause of UI improper payments. U.S. Dept. of Labor, Office of the Inspector General, *Inspector General's Top Management Challenges Facing the Department of Labor.*

[v] Ibid.

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[xcii] See Testimony of Sharon M. Dietrich before the U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Human Resources, September 11, 2013.
[xciii] U.S. Social Security Administration, FY 2016 Budget Overview, available at http://ssa.gov/budget/FY16Files/2016BO.pdf.
[xciv] See Acting Commissioner of Social Security Carolyn Colvin, Testimony before the U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Social Security, February 26, 2014, available at http://www.ssa.gov/legislation/testimony_022614.html.
[xcv] Ibid.
[xcvi] Ibid.
[xcvii] U.S. Social Security Administration, FY 2015 Budget Overview http://ssa.gov/budget/FY15Files/2015BO.pdf and FY 2016 Budget Overview.
[xcviii] Ibid.
[xcix] See sources cited supra note xxix.
[c] Acting Commissioner of Social Security Carolyn Colvin, Testimony before the U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Social Security, February 26, 2014.
[ci] For more information on the WISP proposal, see the report of its technical advisory panel, available at http://www.ssa.gov/disabilityresearch/documents/WISP-final%20report-5-1-12COMPLETE.pdf. For more information on CCD's benefit offset proposal, see http://www.c-c-d.org/fichiers/CCD_Final_Benefit_Offset_Proposal.pdf. Notably, Congress needs to restore SSA's Title II (Disability Insurance) demonstration authority to permit the agency to evaluate approaches to strengthen and simplify its programs' work incentives. The agency currently has demonstration authority for the SSI program, but demonstration authority for the Disability Insurance program expired in 2005.
[cii] Rebecca Vallas and Joe Valenti, Center for American Progress, "Asset Limits Are a Barrier to Economic Security and Mobility" (Sept. 2014), available at https://www.americanprogress.org/issues/poverty/report/2014/09/10/96754/asset-limits-are-a-barrier-to-economic-security-and-mobility/.
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[civ] Kalman Rupp et al., "A Profile of Children with Disabilities Receiving SSI: Highlights from the National Survey of SSI Children and Families," table 4, Social Security Bulletin, Vol. 66 No. 2, 2005/2006, available at http://www.ssa.gov/policy/docs/ssb/v66n2/v66n2p21.html.
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[cxii] Vallas and Fremstad, "Social Security Disability Insurance: A Bedrock of Security for American Workers."
[cxiii] U.S. Government Accountability Office, "Overlapping Disability and Unemployment Benefits Should Be Evaluated for Potential Savings," (July 2012), available at http://www.gao.gov/assets/600/593203.pdf.
[cxiv] For a full set of recommendations to give workers with disabilities a fair shot at employment and economic security, see Rebecca Vallas, Shawn Fremstad, and Lisa Ekman, "A Fair Shot for Workers with Disabilities" (January 2015), available at https://www.americanprogress.org/issues/poverty/report/2015/01/28/105520/a-fair-shot-for-workers-with-disabilities/.
[cxv] Justice in Aging, "Martinez v. Astrue Litigation," available at http://justiceinaging.org/our-work/litigation/martinez-v-astrue-litigation/ (last accessed June 2015).

Chairman BOUSTANY. And we thank all of you for your very profound testimony.

Now we will move to a series of questions. And I will start by stepping back for a moment.

I showed a video at the very beginning. I know that Mr. O'Carroll and Mr. Bertoni have been looking at this problem for quite some time.

Mr. Eysink, from a State perspective, Ms. Rohlman from Equifax's perspective on this, are those concerns valid? Is this a serious problem?

Obviously, the CNN investigative piece depicted what appears to be a very serious problem. We have heard numbers. Is it your view that this is a serious problem, a growing problem?

Mr. EYSINK. It is a serious problem, and it is, I think, where we have to be more vigilant in the future than we have been today. I think that is the next frontier in fraud prevention, is these rings that get very sophisticated about the data that they get through hacking or whatever means and then use it to defraud our systems.

But I think, at least I hope, that our approach of requiring claimants to show up in person will allow us to stop any claims like that very quickly. I think validating identities and so forth with all of our crossmatches up front will prevent many of them from getting the claim through the first screen.

And the other, I think, requirement in every State that would prevent a lot of this, too, is the work registration requirement. It is unlikely that somebody who has a system to defraud Unemployment Insurance directly is also going to be able to meet the work registration requirement which, in most cases, is an entirely different system, and that needs to be enforced very widely.

Chairman BOUSTANY. I think in your oral testimony you mentioned some costs associated with the reforms Louisiana had implemented.

Is this—I mean, the general cost of what you're proposing, is it unduly expensive for the States to implement?

Mr. EYSINK. It is very expensive and difficult for States that have not yet moved off of their old mainframe systems to implement these crossmatches and all these other interfaces. I think the States—and I think it is in the teens now that have launched these new systems. We are in process.

It gets much easier when it is a Web-based system dealing with a Web-based system. But there is a cost associated with that that will have to be borne. The benefits are great to the trust funds, but the cost is borne on the administrative side.

Chairman BOUSTANY. Could you give us an order of magnitude on cost.

Mr. EYSINK. For us, we are going to spend close to $10 million to modernize our system. Other States could spend considerably more than that, depending on the route they have taken or the method that they are taking, working with other States or not or going alone. Several States have tried and failed. So they are having to duplicate those costs again. It can easily get into the tens of millions per State.

Chairman BOUSTANY. Ms. Rohlman, do you want to comment? Same questions, basically.

Ms. ROHLMAN. Sure. So I would agree definitely that this is a serious problem. We know that the improper payment rate remains over 11 percent. Much of what has been said about the modernization of systems is necessary.

The Department of Labor has certainly been trying to address this issue and others, again, with the database, as I mentioned in my testimony about Do Not Pay, how that database was trying to reduce improper payments as well. Definitely something that needs improvement.

Chairman BOUSTANY. What is a reasonable amount of time to get these new systems in place?

Mr. EYSINK. It can take—for us, it is going to take, probably by the time we are done, a little over 3 years to make that whole transition.

I would say there are some relatively unsophisticated things States can do to protect against some kinds of fraud, for instance, scan for sequential Social Security numbers. It sounds obvious, but some of these rings just crank them out like that. The other thing is multiple claims from seemingly unrelated people going to the same addresses.

Chairman BOUSTANY. And implementing the personal appearance requirement, was that an expensive endeavor or was it difficult to implement?

Mr. EYSINK. It was difficult to implement because it required a change in practices and culture in our one-stops around the State. They didn't schedule. It was all walk-in traffic.

But now we have to schedule those visits when they have low walk-in traffic so that people don't get stacked up and wait. They have to do some activities in a classroom style. But these are just logistics issues.

There is some expense in that it requires staff and many officers who they really could not afford to have at the time. There are some facilities expenses. Not all of them are really equipped for that volume of people. But these are logistics issues that can and should be solved.

Chairman BOUSTANY. Mr. O'Carroll and Mr. Bertoni, the two of you have been looking at these problems systematically. I know, Mr. O'Carroll, we spoke in the office not long ago about some of this.

And, I mean, there are specific bills that have been proposed. You heard some of the testimony from members. There are other bills out there. I think you heard what my home State of Louisiana is doing.

Could you comment further on these kinds of steps to get program integrity in place.

Mr. O'CARROLL. Yes, Chairman. One of the things that I mentioned in my testimony is the legislation on allowing IGs to be exempt from the Computer Matching Act.

And the reasoning behind it is pretty much as we were talking before with identity theft, that, in government databases, we know and have a lot of identifying information about individuals that the agencies can share with each other, which would identify who the person is and make sure that the right person is getting the right benefits.

So, in that regard, that would be—one of the bills is the IG Empowerment Act. But of the bills that are being proposed by this committee here, all of them—the Fraud Act, the CUFF Act—each of those are going after the facilitators, the organized groups that are going out there trying to defraud us.

I think that is a major step in the right direction and then making sure that the people that are fleeing from us aren't going out there doing more crimes while we are still giving them checks.

Chairman BOUSTANY. Thank you.

Mr. Bertoni.

Mr. BERTONI. I think, in general, we need to move into a 21st-century verification system. So many times we hear about recipients self-reporting without third-party verification across numerous programs across government. I have been reporting on it for 20 years.

So we need to move into the realm of data cross-matching. We need to create interfaces, whether it be State to Federal, Federal to Federal, Federal to State, you know, whatever needs to happen. We need to triangulate data so we have corroboration of what people are attesting to.

As an example on the UI side, we talk about face-to-face interaction. I can go on the Internet and go to a Web site in Hong Kong and get the highest grade driver's license that will pass TSA screening and TSA—you know, whatever their verification devices, have that in my pocket, walk into an Unemployment Insurance agency, present that. They look at the picture. It matches the license. And we are good to go.

What you need to do is verify that license with a third party. So with an interface with a DMV, a driver's license entity, if you ran that and that picture comes back in an online mode and, if the technologies are there, you could see that there was a disconnect between that person's face on the license and the one that the DMV has. So a classic example of data crossmatching that could work.

Chairman BOUSTANY. Seemingly simple solutions, yet we are still fighting with this identity theft issue. I certainly appreciate the input and the insights you provided.

I am now pleased yield to my ranking member, Mr. Doggett, for questions.

Mr. DOGGETT. Thank you, Mr. Chairman.

And thanks to each of our witnesses for their testimony.

You know, I am as outraged as anyone by the notion that someone who's incarcerated is getting public benefits when public benefits are under such siege here and in many State capitals and there is so much need out there.

But I think it is apparent from the testimony that we don't get law enforcement in this area any less expensively than we get it for any other kind of crime. Whether it is identity theft, whether it is getting, as you were saying, Mr. Bertoni, triangulation data, the States cannot be expected to do this for free and neither can the Federal Government.

And so, while I am in favor of and probably will have an opportunity to vote for a number of the measures discussed this morning, really, they don't begin to scratch the surface of this issue the

way providing the resources to the law enforcement agencies involved here, as, particularly, Ms. DeLauro and Mr. Becerra pointed out in their testimony here, unless we do that. So if there really is a desire to prevent fraud, to prevent overpayment, we would provide the funding necessary for these agencies do their job.

As much as is the case with the Internal Revenue Service, it is always difficult to defend additional appropriations for an agency that generally is so disliked across the American public, but we are losing billions of dollars a year because we are not providing the money for the IRS to deal with tax fraud. And the same thing applies here.

I appreciate the testimony of all of our witnesses. I am going to address my questions to Ms. Vallas.

First, just draw attention, if you would, to the difference here between identity theft, overpayment, and fraud. And how on the overpayment side does this occur? And what can we do to prevent the miscalculation that may occur there quite innocently, but that has an impact?

Ms. VALLAS. Thank you for the question, Congressman.

I would reiterate, as you have and as others have this morning, the importance of keeping in mind the difference between an overpayment, which can be an accident or a miscalculation, and fraud, which really does require the intent to defraud a system or a program. And the vast majority of overpayments in the programs we are discussing this morning are not due to fraud. They are due to administrative error, miscalculations and so forth.

And I will give you one example which ties in very much with administrative resources or the lack thereof, which you mentioned in your question.

One significant consequence of years of appropriators depriving the Social Security Administration of the resources it needs in order to keep up with its workload is that there is now a significant and massive delay in processing beneficiary's earnings reports.

The most recent statistic that I have heard from the agency is that the delay in processing a beneficiary's work report, how much they earned, is now 270 days, or 9 months. That is how long it sits on someone's desk waiting to be processed.

So a DI or SSI beneficiary can do absolutely everything right, faithfully report his or her earnings, and, yet, still get hit with a massive overpayment that is not his or her fault and that really is just a mistake months later.

Another leading cause of needless overpayment is the outdated asset limits and income limits that you mentioned, Congressman, in the SSI program. They have barely budged from where they were set in the 1970s.

And so beneficiaries are effectively prohibited from having even modest, just precautionary, savings just in case there's a leaky roof or their water heater breaks. They cannot even have more than $2,000 in the bank. So, as a result, what we are seeing is overpayments that would never have occurred under the original intent of the SSI program. And the same is true with the income rules as well.

Mr. DOGGETT. And who are these SSI beneficiaries? We don't have any here today. But what kind of people are we talking about?

Ms. VALLAS. Well, it is really worth mentioning and reiterating how strict the disability standard is. So, in addition to the 2 million very-low-income seniors who receive SSI benefits, we are also talking about individuals with the most significant disabilities, the most severe illnesses, many of them actually terminally ill, people with significant cerebral palsy, Alzheimer's, severe mental illness and so forth.

And these are individuals so have largely nothing else to turn to, nothing else to rely on. And so SSI benefits really are for them. It is the difference between having a roof over their head, being out on the street. It can enable people to afford needed copays on life-sustaining medications. I can't reiterate the importance of the SSI program to its beneficiaries.

Mr. DOGGETT. Thank you very much.

Mr. YOUNG. [Presiding.] I will yield myself 5 minutes. The chairman had to step out. I thank all of the panelists for your testimony today. Very informative, each of you.

I think all of us agree our safety net programs have to reflect our values. And those values, I think collectively as a country, are about regarding every single American as an asset to be realized and not a liability to be written off.

That is really the function of these safety net programs. And to the extent to which we can further improve the integrity of these programs, the better we realize that overall objective.

In a previous life, I worked as a management consultant. And, specifically, I did most of my work in the state and local government space. So I have some appreciation for the value that the private sector can add with respect to project management, program integrity, innovation, technology, implementation, and business process redesign.

So I was very much struck by Ms. Rohlman's testimony and the good work, Equifax, your company, is doing to improve program integrity especially through the automated income and employment verification services that you offer through your proprietary database, The Work Number.

Your solutions facilitate a delivery of a streamlined, secure, and timely transfer of information between employers, on the one hand, and verifiers to help ensure that we have an accelerated decision-making process of an individual's government benefit eligibility.

This means cutting through bureaucratic red tape, reducing program abuse. There is less back-and-forth under your process, less waste of paperwork and human resources, and we can spend more time helping people who really need a hand up instead of trying to verify employment and income.

I would like Ms. Rohlman kindly to elaborate on specifically how your automated verification services can improve the process to assist individuals who are at need at the State and Federal level.

Ms. ROHLMAN. Certainly, and thanks for your question.

We actually work with the State of Indiana today on all of your other benefit programs. We are integrated with your systems today.

And to give an example of how that works, someone comes into an office, a case worker pulls up their data, and if we have employment and income information on them, it goes straight into your system at that point in time.

You can see if, in fact, we have employment and income available. You can see if there have been changes if they were in a month before and X wages were reported and now Y wages are reported. It helps to make decisions that are necessary to allow those benefits to be applied.

For UI purposes, we are not working with the State today, but one of the actions that was underway in the past was both—I mentioned Do Not Pay and that process. We have also met with the Department of Labor—we do that on an ongoing basis—and spoke with them about modernizing systems, their efforts towards data analytics in the future, and definitely working with Web-based verification systems.

They are very familiar with our database and believe that it can provide tremendous value in this space, once again, to just make sure that we are not only relying on self-reporting and trust, but that the data is there and use of databases and commercial databases both from private, public, State, Federal back and forth can work.

Mr. YOUNG. Thank you.

We are here to improve program integrity. And so I would be remiss if I didn't ask you in my remaining minutes which I yielded to myself what sort of barriers Equifax encounters in various States.

I can recall, as a management consultant, there would be different risk factors in every implementation, every project, some of them legislative, others regulatory, some human resource.

How can we help improve program integrity, working with companies and other entities like yours?

Ms. ROHLMAN. Great question, because we see this a lot.

Modernization of systems is something that is underway in many States. It does take a while. Definitely the legislative statutory requirements around data sharing are necessary.

I know that we work with SSA today and, again, they are not allowed to use batch. Our system for batch verifications is on a per-applicant basis, and it is all because of a statutory requirement that they are not allowed to do that.

Again, DOL expects that same issue. Do Not Pay ran into that. We did work with Treasury in the past. And, again, it is a statutory requirement that we believe can be changed pretty simply.

Mr. YOUNG. Thank you. Very helpful.

I now yield to Mrs. Noem.

Mrs. NOEM. Thank you, Mr. Chairman.

Inspector General, could you tell me why we are not allowed to use batch. I guess I wanted to follow up on that question a little bit to see if you could give us a little bit of insight as to why that is not able to be utilized or maybe some historical perspective.

Mr. O'CARROLL. Yes, Congresswoman. That kind of falls under the Computer Matching Act. The purpose of that act when it was initially passed was that it was for the privacy of the citizen. And they were feeling that, if government was using all this informa-

tion that they had, that it would be used unfairly towards the citizenry.

But what we are saying is that we would like the exemptions for that to be done on antifraud initiatives, not for blanket information on citizens, but just to be able to compare that information. And most of it is against the batches.

So, as an example, we can do one-on-one queries of other agency databases, but when we get into doing it in batch form, all we can use it for is audits. We can't use it for antifraud initiatives. We can't use it for that.

Mrs. NOEM. Okay.

Mr. O'CARROLL. So that is why we are asking for the exemption for not only the IG, but also for the agency to be able to use it for antifraud and abuse.

Mrs. NOEM. Okay. Thank you. I appreciate that insight.

I take it very seriously that our job here today is to try to discuss the programs that we have out there, the dollars that are being spent, and make sure that we do restore integrity where there is opportunity to do that.

The Congressional Budget Office reports that fugitive felons will receive up to $5 billion in Social Security and SSI benefits in the next decade unless we enact reforms such as the CUFF Act, which the Inspector General has referenced earlier, and which I am cosponsoring with Congressman Johnson.

Inspector General, could you tell us a little bit about the history of this provision and then—I know you talked about that in your opening statement—also, the court cases and the impact that they have had on actions that have been taken.

But I wanted to give you another opportunity to go a little bit deeper into that to see how we can put this kind of—why this legislation would be necessary to make sure that we could take the action to not continue payments whether they are not justified to felons.

Mr. O'CARROLL. Congresswoman, that bill—well, in 1996, the bill was passed that fleeing felons wouldn't be able to receive benefits. That was for the SSI program. And then, in 2005, it was applied to all of SSA's programs. So it would be, also, the other programs of SSA. And then, in 2009, what happened was there were several court decisions.

The court decisions were basically saying that the terminology of the bill was "fleeing felons," and the belief was that, if a person was not fleeing, that they would not be liable to having their benefits cut off. And so that one, which is called the Martinez settlement, went into effect.

And then, at that point there, just to give you a little bit of idea of the sizing it, we were talking about 50,000 people were ineligible up until Martinez. And then, at that point, we are at about 800—well, we had identified about 50,000 people that were ineligible. And now, with all the different constraints that are put on it in relation to fleeing, we are down to about 800.

Mrs. NOEM. Do you have any idea of the dollar amount change that that encompassed?

Mr. O'CARROLL. Yeah. We were talking—let me think. I have that somewhere right here in front of me.

Congresswoman, let me get back to you on that. I should have it right here.

Mrs. NOEM. Sure. That is okay. You can certainly get that to me in the future.

Mr. O'CARROLL. I do have it in front of me right now.

We were talking improper payments of about—$321 million was our original audit, and it has gone down to about $14 million.

Mrs. NOEM. Okay. Thank you very much.

Mr. O'Carroll, do you support the CUFF Act, which would amend the Social Security Act to prohibit Titles II and XVI from being paid to felons?

Mr. O'CARROLL. Yes. We not only support it, but we have helped on some of the technical work on developing it.

Mrs. NOEM. Okay. Thank you. I appreciate that.

And I appreciate the committee bringing this to the hearing today and other bills that will help prevent abuse and improper payments going forward.

I yield back.

Chairman BOUSTANY. [Presiding.] I thank the gentlelady.

Next we will go to Mr. Lewis.

Mr. LEWIS. Thank you, Mr. Chairman, for holding this hearing this morning.

I want to thank all of the witnesses for being here.

Ms. Rohlman, thank you for coming all the way from Atlanta to be here and to testify.

Ms. Vallas, as we work to prevent overpayment, you have cautioned us about avoiding unintended consequences, that they end up hurting qualified disability or UI claimants.

Can you review for us proposals that might end up being benefit cuts for very needy Americans as opposed to reduction in fraud and abuse.

Ms. VALLAS. Thank you for the question, Congressman.

I did mention that in my written testimony and in my opening statement because I think it is important that we take great care as we work together in a bipartisan fashion to root out fraud and abuse that we not unwittingly move forward legislation that would carry with it unintended consequences that could weaken these vital programs and really serve as benefit cuts for the neediest Americans.

I mentioned the SAIL Act, which I have great concerns could result in interruption of SSI for children with significant disabilities who face very legitimate and understandable interruptions in their schooling. So, for example, many SSI beneficiaries are too sick for full-time school. Many are actually terminally ill. Back in 2013, 7 percent of the SSI child caseload was terminated due to the death of the child.

Other reasons for interruptions in school can include homelessness and poverty, which can lead to movement, geographic mobility, a high risk of needing to enroll in different schools. Students with disabilities are also substantially more likely to be bullied than their peers, which can lead to gaps in school enrollment.

And, finally, students with disabilities are disproportionately likely to be suspended or expelled from school, which then the

SAIL Act could result in a destabilization of the family's income at the very time when they are also dealing with school discipline.

You mentioned the Double Dip Elimination Act, which pertains to Unemployment Insurance and Disability Insurance, and I have significant concerns about that piece of legislation as well.

First, Social Security's disability programs contain strong work supports and incentives for those who may be able to return to work. And so people who receive Social Security disability benefits are permitted and, in fact, encouraged to work. As a result, they can experience job loss. It can end up resulting in Unemployment Insurance eligibility.

And what we really don't want to do here is to take a step backwards and to create work disincentives for disabled worker beneficiaries who, I think, on a bipartisan basis, we all want to work together to encourage and support in returning to work if they are able.

There are other reasons I have detailed in my written testimony of why I am concerned about that bill as well.

And, finally, I would mention the CUFF Act, which came up previously. And while the Social Security Act appropriately prohibits individuals who are fleeing to avoid law enforcement from receiving Social Security or SSI benefits, it is important to keep in mind that the previous SSA policy of terminating benefits anytime they had a match with a database that revealed an outstanding warrant had significant problems in its approach.

First, SSA frequently suspended or denied benefits in cases where warrants were so old that the law enforcement entity had no intention of pursuing them anymore, decades-old warrants.

Second of all, there were frequent cases of mistaken identity because of unreliability of criminal records databases.

So, for example, Rosa Martinez, a 52-year-old disabled woman, in 2008 was notified that she would lose her disability benefits because of a 1980 arrest warrant for a drug offense in Miami, Florida. Now, it came to light that Ms. Martinez had never been arrested in her life, had never used illegal drugs, and had never even been to Miami.

These are the kinds of people whose lives would be negatively impacted by returning to the overbroad policy that SSA rightfully reversed subsequent to the court decisions that the IG mentioned.

Mr. LEWIS. Thank you very much for your response.

Mr. Chairman, I yield back.

Chairman BOUSTANY. I thank the gentleman.

Mr. Meehan, you are recognized.

Mr. MEEHAN. I thank the chairman.

And I thank all of the panelists for their attention to this issue.

I mean, obviously, the safety nets are there for a purpose. And so our objective is not to just indiscriminately go across the ground, so to speak, and try to disrupt where it is appropriate.

But you have each given very telling testimony about just, really, frankly, remarkable inefficiencies in the way we share data and otherwise allow people to utilize the system in a way. I hesitate to use the word "manipulate" because we do know there are some people that may be caught in unemployment, employment.

But there is also a lot of people that take advantage of the system, the earned income tax credit being filed at one point in time and then later filing for unemployment benefits. So we have examples in which there are two separate documents filed to the same agencies that are by their very nature competing with each other.

Ms. Rohlman, you are in the private sector, and a lot of what I am hearing here is the inefficiency or inability for databases to talk to each other. What should we be doing better?

Because in the private sector I am amazed at how quickly information changes. All I have to do is do a search on something and now I have companies coming to me trying to sell me products because I have looked at something. And people are making evaluations while I am using a credit card. They are looking at databases.

What's missing in our system that we are so incapable?

Ms. ROHLMAN. So I would say again that the ability to use commercial databases and to share data between those—there is no question the value of data matching and data sharing. Again, the privacy laws in some cases that have been referred to are already prohibiting that sharing between the databases.

Mr. MEEHAN. What about the privacy laws? What is there that needs to be fixed in that that could allow us to catch appropriate protection for people's privacy, but identify those who are acting fraudulently?

Ms. ROHLMAN. I can share what I am aware of. We did hear this, again, from the Department of Labor, we heard this from Treasury, Department of Labor as it relates specifically to UI, Treasury as it related to the Do Not Pay, and SSA as it refers to our agreement with SSA that we are in every day.

There is a statutory provision that does not allow them to share with the commercial database specifically for the batch matching with SSA. I know that there is something in their 2016 budget which will help to revise that. So certainly looking at that would be the first thing I would do.

The DOL and Do Not Pay—I mention Do Not Pay only because, again, their first efforts were around UI integrity. We did engage with Do Not Pay, Treasury, the Federal Reserve Bank, St. Louis and Kansas City. We had initial matching going back and forth.

We were in production with two States, Utah and Arizona. It had to be stopped because they were not allowed to share between the State and the Federal Government. The law governing Do Not Pay, for example, only allowed them to share with Federal agencies. So it did not allow them to work with the state agencies and share the data that we——

Mr. MEEHAN. Notwithstanding that many of these programs are Federal programs that are operated through the States. So the State's acting as an agent for the Federal Government in many of these or at least working as a supplementary source. So they are complementing each other. But many are working simultaneously already.

Ms. ROHLMAN. Correct. So the UI program, again, as it was written in the Do Not Pay—and we did hear the same thing from Department of Labor—there is a provision that—again, I am outside my area of expertise because of the law in this case, but they continued to say repeatedly it was a statutory provision not allow-

ing them to share data between the States and the Federal agency and it was related to the Privacy Act.

Mr. MEEHAN. Well, this issue alone—Mr. O'Carroll, Mr. Bertoni, others, do you have any comments that would supplement that or any observations in this area?

Mr. BERTONI. I would say there is no blanket answer. I would think you would have to look at each individual desire to match databases with the circumstances and the laws associated with it.

A good example is the Death Master File. Right now Social Security Administration, per law, in the Social Security Act, there is a little line in there that says, if it is data that is reported from the States, it comes from state vital statistics agencies, SSA is prohibited from sharing that information with everyone but seven or eight Federal benefit-paying agencies.

So if you are not a Federal benefit-paying agency, you can't get that state information. DEA for drug enforcement purposes, Department of Homeland Security for other purposes, can't get the full death data. They have to get an abbreviated file.

So, again, on an individual fact basis, you are going to run into these quirks in the law that prevent full interface.

Mr. O'CARROLL. Congressman, one of the things you were talking about was the earned income tax credits as an example.

Just to give you an example of where computer matching would help, you have the Department of Treasury that sends out the check for the earned income tax credit, which is the same one that is sending out the benefit checks for Social Security on it, and they don't match the two. And when——

Mr. MEEHAN. So within their own database they should be running that check as a first kind of screen against——

Mr. O'CARROLL. But, again, since it is two benefit programs, they are not allowed to match on that one. It gets very complicated.

Another one is that Department of Labor can be giving government unemployment benefits to a person and then SSA at the same time will be giving them disability payments on it where the two agencies aren't matching again.

Mr. MEEHAN. Well, it appears there are certainly a lot of windows.

I appreciate your testimony in this area and your observations built out of your experience. It is very important for us to be able to find the ways to alleviate this.

Thank you

Chairman BOUSTANY. I thank the gentleman.

Mr. Davis, you are recognized.

Mr. DAVIS. Thank you very much. Mr. Chairman, let me thank you and the ranking member for calling this hearing.

You know, I grew up during an era when people put a great deal of emphasis on the notion that an ounce of prevention was worth much more than a pound of cure and that, if you could prevent things from happening, then, of course, you would experience the benefit of that.

Mr. O'Carroll and Mr. Bertoni, both of you have been engaged in this effort to ferret out what we call waste, fraud, and abuse for quite some time.

In your experiences, what have you found the most? Has it been waste? Has it been fraud? Has it been abuse that you could just categorize?

Mr. O'CARROLL. Congressman Davis, I will take a first crack at that.

Yes. We have improper payments, and a big portion of improper payments can be accidental, can be because of laws, rules, whatever, that makes that money go out before it is validated. And then, you know, it is very difficult to bring back.

Our biggest concern and one of the things that we have been trying to do is to assess what part is fraud and what part is just straight improper payment, accidental, intentional, or whatever. It is very difficult.

And Chairman Johnson on the Subcommittee for Social Security has asked us to try to size the amount of fraud in SSA, and we have taken attempts for it. It is very difficult. We are in the process of doing it now. We would be one of the first government agencies to do it because it is so difficult to show.

I guess the one thing I try to remind everybody is, although fraud is a very small percentage of the improper payments, when you are dealing with billions of dollars in terms of payments, it is still a very high number and it outrages the public.

Mr. BERTONI. In terms of fraud, historically, in trying to define it, I think even SSA defines it very narrowly. It is only after it has been pursued and conviction has been obtained. That is fraud.

But the funnel starts very large. There is the allegation. There is some sifting through the information. Cases go out. Others stay. The funnel keeps narrowing down to what is suspected fraud. It is picked up by a justice. It is prosecuted. That is fraud.

But that larger funnel is sort of the waste and the abuse where things start. I believe there is a lot more of the waste and a lot more abuse. If the agency is supposed to be doing something and if they don't and it results in an overpayment situation or wasted Federal dollars, that is waste.

If a recipient who is supposed to be reporting their work activities, their wages, a change in their wages, their resources, they know the program rules, they don't and they do that consistently or egregiously multiple times, now we are getting down to abuse.

So, in my view, I think this funnel includes all of it, fraud, waste, and abuse. And I do believe the waste and abuse factor is larger than a lot of folks want to admit.

Mr. DAVIS. Mr. Eysink, I am going to ask you. What has been the most effective in the State of Louisiana in your experiences?

Mr. EYSINK. I think having people show up is what has been most effective for us. But I think that there are a couple of other things, too. And I agree entirely with the description of what is fraud, waste and abuse.

There are two sources of improper payments. One is clearly as a result of errors and, therefore, is wasteful. And that is when employers who pay all of the UI taxes don't report timely or comprehensively to requests for information so that we can accurately adjudicate those claims. We have to do a better job of training our adjudicators, but employers hold the biggest key to solving that issue, and that is wasteful.

Abuse. It is the law that, when somebody who is receiving benefits goes back to work, once they start earning, they are not eligible anymore. But, in their mind, they translate that often into the fact that they hadn't received their first paycheck yet. So they still try to claim for the first week or two that they worked before they got their first check.

No question about whether that is fraud or abuse. Did they really know, had they been through that before, you know, and so forth. And then there is obviously fraud where people just out and out set out to get money that they are not due and they know that.

In the abuse case, employers hold the key to that, too, and that is reporting to state and national directors of new hires as soon as they hire somebody and give us the start date through those databases so we can crossmatch. But those are bigger leakages of money out of the system than fraud.

Mr. DAVIS. Thank you very much, Mr. Chairman. My time has expired. So I yield back.

Chairman BOUSTANY. I thank the gentleman.

I go next to Mr. Smith. You are recognized.

Mr. SMITH. Thank you, Mr. Chairman.

Thank you all for being here today for your testimony.

I want to focus my remarks on the Unemployment Insurance because this program provides cash benefits for people in the State of Missouri through the payroll taxes.

In the fiscal year 2014, the improper payment rate was 11.6 percent. It included $5.6 billion. To me, that is completely unacceptable and very awful.

I think about it from the perspective that, if I went to McDonald's and ordered an extra value meal, I would have over a 10 percent chance of having an incorrect order. Or if I went to my local bank and wanted to deposit my funds or to withdraw some funds, what if the bank was wrong more than 10 percent of the time in the amount that they gave me or the amount that they took out of my account? That would be completely unacceptable.

What do you think Members of Congress would think whenever they received their check every month that it was 10 percent less than what they were expecting? Or what about any, any, individual working from day to day on their paycheck got 10 percent less?

The American people don't accept this and it is just not absolutely right. It is unacceptable. When you look at more than $200 billion of Federal money being inappropriately or fraudulently spent, that is a problem.

The Department of Labor has set a goal of reducing their annual and proper payment rate from 11.6 percent to 11.3 for 2015.

Ms. Rohlman, do you think that is good enough?

Ms. ROHLMAN. I would say that Department of Labor is working diligently to combat fraud. I think there are a couple of small things that could be done I mention in my testimony that could have a dramatic impact.

First of all, again, I mention about the reporting system, again, the weekly breakdown of data. If, in fact, States were encouraged by the Department of Labor to provide weekly reporting, it would help. Today there are only 14 States who provide weekly break-

down of data. It may be on a quarterly basis, but it at least comes back weekly. So it does help the employers.

Another thing that could be done from a small process perspective is relaxation of the rules about the format for wage audits and those verification forms. Today it is a requirement in most States to have a Sunday to Saturday reporting back to the UI agency. And, in fact, that is very outdated logic, actually.

Our data shows that there are between 20 and 30 percent of employers who report weekly, but it may not necessarily be Sunday, Saturday. It may be Monday, Sunday or it may be et cetera. And the traditional formats for employers are semimonthly and they are biweekly. We find that about two-thirds of employers are reporting that way.

So if there was just a tweak, which was allowed to use the data that is available and then only process those or send to investigation those where there is a dramatic difference in the data matching that is seen in UI reporting, it would make much more efficient use of the process and of investigator resources. And we strongly believe it would reduce improper payments.

Mr. SMITH. So you think just relaxing the rules, what you said, basically, modifying it, which is in the power of the Department of Labor, would probably reduce improper payments by how much?

Ms. ROHLMAN. I don't have an exact number, sir. But if Department of Labor allowed that direction to the States and let them slow that down and say, "You can relax these rules," we definitely believe that compliance would go up.

It would allow more time to provide the benefits to those who deserve them, but then also to focus on those where there may, in fact, be a discrepancy.

Mr. SMITH. Mr. Eysink, would you respond to that.

Mr. EYSINK. Yes, Congressman. First, I want to point out that all improper payments are not fraud and that improper payments can occur when everybody is acting in good faith, and often they do.

For instance, there could be a decision made in adjudication to award Unemployment Insurance claims and later on during the process, after the claimant has started to receive benefits, those awards are overturned for—as I say, in cases where there is just a difference of opinion on how the facts should be applied to that case.

Also, many of these improper payments are recovered. We and, I think, nearly all States, if not all States now, recover or seize overpayments from tax refunds, both State and Federal, and we recover millions of dollars that way every year.

Mr. SMITH. Let me ask you a quick question, then. The $5.6 billion that is used as improper payments in 2014, would that mean that there was actually, in fact, more improper payments above $5.6 billion and they factored in the money that they did recover or is the recovered amount included in the $5.6 billion?

Mr. EYSINK. The recovered amounts are not included in the numbers reported for States and what their improper payments are. So I doubt that they are included in that $5.6 million, but I can't tell you for sure.

Mr. SMITH. Thank you, Mr. Chair.

Chairman BOUSTANY. I thank the gentleman.

Next we go to Mr. Crowley. You are recognized for 5 minutes.

Mr. CROWLEY. Thank you, Mr. Chairman.

I thank the panelists for your testimony today. And I also want to thank the previous panel made up of Members of the House. I appreciate the interest and engagement on these issues.

The hearing announcement is described as—and I quote—"Protecting the Safety Net from Waste, Fraud, and Abuse." And I appreciate very much, Mr. Chairman, the titling of the hearing today.

I think these are all noble goals. I don't think any of us, whether Democrat or Republican, wants to see waste, fraud, and abuse taking place in crucial social programs like Supplemental Security Income or Unemployment Insurance.

Frankly, I would like to see more hearings begin with protecting the safety net. Maybe we can start by protecting it from budget cuts and sequestration to start.

But back to waste, fraud, and abuse, as I said, this is something that we all, if we don't agree on, we all certainly should agree on. But how we approach this problem makes an important difference. For example, look at Social Security. The Social Security inspector general's office of investigations supports the front line investigators fighting Social Security fraud. But in 3 of the past 5 years, the majority has cut the inspector general's budget. That means we lost experienced investigators and now have fewer people helping to fight fraud than we did 5 years ago.

In other cases, programs haven't been updated as needed, which would reduce the rate of overpayments. So in some ways, we are limiting our ability to fight fraud and abuse. Beyond that, I want to make sure we all understand what we are talking about when we say fraud and abuse. Not every overpayment is fraud. And not every unusual circumstance is abuse. These are important programs that can make the difference between supporting a family and falling further behind in poverty. These benefits are needed and not enjoyed. They are appreciated, not savored. Somehow, over the years, there has become this legend of people who would rather receive unemployment benefits than work, that somehow they are content to live happily off these government funds without facing any hardship. These kinds of myths do a disservice to the hard-working Americans who lost their jobs through no fault of their own and rely on these funds to make ends meet. Ms. Vallas, let me ask you to clarify, what is the average unemployment benefit per month?

Ms. VALLAS. Thank you for the question, Congressman. The average weekly unemployment benefit at the end of 2014 was $317, which comes to $1,268 per month.

Mr. CROWLEY. And what is the Federal poverty level for a family of three?

Ms. VALLAS. For a family of three, the Federal poverty level in 2014, so we can compare apples to apples, was $1,649 per month.

Mr. CROWLEY. So, in other words, the unemployment benefits don't even keep a family above the poverty level, is that correct?

Ms. VALLAS. That is exactly right. That is the case for many families unfortunately.

Mr. CROWLEY. So all these mythical people who are abusing the program, who are gaming the system and committing fraud, which is an actual crime with actual penalties, they are still not even meeting the basic poverty level, is that correct?

Ms. VALLAS. That is correct, Congressman.

Mr. CROWLEY. What about disability insurance? How much of a windfall is that? How much per month?

Ms. VALLAS. The average, well, I should say, first, for the typical worker, a DI benefit replaces less than half of their previous earnings. So for most folks, it really is a significant drop in their standard of living. The average DI benefit in this year, 2015, is $1,165 per month, which is just over the Federal poverty level for an individual.

Mr. CROWLEY. Can you tell us more about the people who receive disability benefits? How many live in poverty even with the benefits provided by the Federal Government?

Ms. VALLAS. Even with the benefits, because they are so modest, fully 1.6 million DI beneficiaries live in poverty, that is 1 in 5 DI beneficiaries.

Mr. CROWLEY. And these are people with severe, life-changing disabilities or illnesses, is that correct?

Ms. VALLAS. That is correct.

Mr. CROWLEY. Thank you. I know some have tried to dismiss these conditions as just anxiety and backaches. And that simply isn't the case. Yes, fraud and abuse happens. Our Founding Fathers recognized the propensity in human nature. And we should make sure we are giving our agencies the tools they need and have asked for to fight real incidents of fraud and abuse and I would also add waste. I just want to make sure that we all understand this. Because as we focus on reducing real fraud and abuse, let's make sure we are not putting additional hurdles in the way of benefiting the people who need these benefits to help them survive.

Going back to my initial statement about protecting the safety net, that is also critical, protecting the safety net, while at the same time addressing and going after those who would abuse it, going after those who would commit fraud. They need to be fully prosecuted to the full extent of the law. But not losing sight of the millions of individuals and their families who rely upon this to eke by, not to get rich off the Government, but to simply make ends meet if they can possibly do that. They certainly can't do that in Woodside, Queens on this level of payment. So with that, Mr. Chairman, I will yield back.

Chairman BOUSTANY. I thank the gentlemen. Mr. Dold, you are recognized for 5 minutes.

Mr. DOLD. Thank you, Mr. Chairman. And I certainly want to thank all of our witnesses for coming and for your testimony today. And really the topic that we are talking about, I am going to agree with Mr. Crowley, in talking about protecting the safety net, that is a goal that we all share. And, frankly, when we look at the abuse, when we look at the fraud that happens out there, the people that it hurts the most are the folks that need the safety net the most. And ultimately, I think what we want is we want confidence, we want confidence in the system, that it is going to work, that the Government is actually out there working. And when we

have the, what we are looking at is billions of dollars in terms of just payments, improper payments paid out, Mr. Smith was talking about, it is about 10 percent, 9.2 percent for SSI and 11.6 percent for UI. He is talking about a McDonalds on this thing. I would talk about it as if you are driving a car and you know, 1 in 10 doesn't work or is recalled, we are going to have a big problem. And so I recognize that some of these overpayments or mispayments can be rectified. My hope is, is that we do, that we root out this waste, fraud, and abuse. What I am really looking for from each and every one of you, from your subject matter expertise, is what can we do? We want to come up with solutions to these problems so that this number gets as close to zero as possible, so that we can end waste, fraud, and abuse.

And, certainly, Ms. Rohlman, your idea about trying to make sure that the government is accepting the private sector data in a way that it is easy for them to do it makes all the sense in the world. Many of you who were here to listen to the first panel that had a number of pieces of legislation. Ms. Vallas, you talked a little bit about some concerns that you had. But I would be interested from all of you, in terms of the five different pieces of legislation, from permanently ending receipt by prisoners or the PERP Act, The Furloughed Federal Employee Double Dip Elimination Act, the School Attendance Improves Lives Act, the Flexibility to Promote Reemployment Act, and the Control Unlawful Fugitive Felons. Of these, you know, which of these pieces of legislation has merit in your eyes that we should be really trying to focus and move forward? Because, today, if we come and you talk and we don't have an action item going forward about how to really solve these problems in a bipartisan way, then it was really more of a waste of time. And that is not what we are looking to do. We need to solve some problems.

Mr. O'Carroll, we can start with you? Are there some merit in some of the pieces of legislation that you look at? Can you pick your top two or three that you think may be worthy of moving forward?

Mr. O'CARROLL. Yes, Congressman. As was mentioned before, is that we are in favor of, you know the CUFF Act, we assisted on that. One of the things that I wanted to correct, too, was when I was asked by Congresswoman Noem on the dollars of it, was that at the time of 2009, when they kicked in with Martinez, there was about $500 million in savings on it. And since that act, it has been reduced by about two-thirds of that. I just wanted to correct what I had said before and my numbers on that. Anyway, in terms of the other acts, the Fraud Act is one that we are particularly interested in because it is going after the facilitators, it is going after those people that make a business out of stealing money from the Government and facilitating other people to do it, and making sure that, you know, one, when they are caught, they are going to be sentenced correctly, and, two, that the money is going to be brought back to the Government. So of all the acts, that and the CUFF Act would be the two I am most familiar with.

Mr. DOLD. Okay. Mr. Bertoni.

Mr. BERTONI. I would defer. I don't think we have done enough analysis to endorse or really weigh in on much. I would say that

what the Congress can do is do what you are doing. I think your oversight role, to hold agencies accountable for doing what they said they were going to do. Certainly the appropriations process, you can direct funds to areas of greatest vulnerability. We have looked at the CDR process. We have given the agency some direction as to how they can mine that data and to work certain subpopulations of the data that would give them a significant return on the investment.

You have already done that with age-18 redeterminations and low-weight babies. The return on investment, the cessation rate there is 52 percent and 60 percent, respectively. We have put some other subpopulations on the table. A speech and language delay for children, 38 percent return on investment for CDRs. Mood disorders, 39 percent investment.

So there are ways that you can through the appropriations process target funds to specific areas where the agency can be more effective in their reviews. And by removing some of these cases, the program can become less costly. You can also remove a lot of these children from the roles that could benefit from being in a different track, not labeled as being Special Ed, just mainstream them and getting them the supports they need to be successful. So I think there is opportunities in your role to direct the agency to areas where they can be most effective.

Mr. DOLD. Thank you. Mr. Eysink.

Mr. EYSINK. Thank you. As with any good idea, I wish I had had it before the person really had it. I think both the name, to call it the PERP Act, I think that is great. In Louisiana, we prevent people from getting hunting and fishing licenses if they have defrauded our UI system. So anything that gets to people to what they want to do, that is going to, you know, what their passion is, if we put a barrier and the barrier is paying what they owe before they can go do what they want to do, I think that would be helpful. I think continuing to push forward with the development of the Unemployment Insurance Integrity Center of Excellence, which is being stood up now, I think that is very important, particularly as we get to the new frontier of fraud schemes that are much more sophisticated, and requiring collaboration amongst the States, all of the States, the Federal Government, and all of its agencies that are relevant to these particular programs.

And then another big thing I think, you know, we have spoken and there was some very good questions about the difficulty in interfacing with different databases. There are databases that all of the States should be able to easily interface with. It doesn't make sense to me that all 50 States need to go develop their own contract, if it is a commercial database, or their own particular little interface, if it is a Federal database that we all should be connecting with. So I would advocate for the Department of Labor to get information from States on what those databases should be and to develop a single interface with that entity so that we are all connecting the same way. And maybe that could be made available through existing means that now, maybe through the National Association of State Workforce Agencies which operate some of those tools on behalf of all States and the Federal Government. There might be easier ways to actually connect these databases together.

Mr. DOLD. Mr. Chairman, I know I am out of time but I just don't want to let——

Chairman BOUSTANY. Yes, briefly.

Ms. ROHLMAN. Briefly, I would start with the Reemployment Act. I think that that begins to build the integrity from one end to the other of the process. And then continuing with the UI New York Center of Excellence and, again, helping that to define the processes and those databases that would help all the States, again, from one central location makes complete sense.

Mr. DOLD. Ms. Vallas.

Ms. VALLAS. Thank you, Congressman. I would begin with Mr. Becerra and Mr. Doggett's Social Security Fraud and Error Prevention Act. CAP fully supports this bill which appropriately heightens the penalties for fraud, puts special fraud-fighting units in all 50 States, and targets bad apples without ensnaring law abiding applicants and beneficiaries. Importantly, it also provides SSA with the critical administrative funding that it needs to do important program integrity work such as CDRs and processing work reports which, I mentioned, are now currently suffering significant delays, which I think really is crucial to the bipartisan goal of rooting out fraud and abuse to the extent possible.

Mr. DOLD. I appreciate it. I thank you all for your testimony and appreciate it and look forward to working with you all. Thank you, Mr. Chairman.

Chairman BOUSTANY. Well we thank you. This concludes all questioning. I want to thank the members and our witnesses for being here today. This was outstanding testimony, very helpful to us as we try to grapple with these difficult problems. So thank you for being here. Members may have additional questions that they will submit to you. And, if so, I would ask that you try to get answers back within 2 weeks so we can complete the record. With that, the subcommittee stands adjourned.

[Whereupon, at 12:14 p.m., the subcommittee was adjourned.]

[Questions for the record follow:]

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June 25, 2015

Congressman Charles W. Boustany, Jr. MD
1431 Longworth House Office Bldg
Washington, DC 20515-1807

Dear Chairman Boustany,

I greatly appreciate the opportunity to testify before the House Ways and Means Subcommittee on Human Resources on June 3.

I received a follow-up question asking for additional information on the 40 or so data sets and cross-matches that Louisiana is building into its modernized computer system to improve the integrity of the unemployment insurance program. Many of those cross-matches or interfaces with other private or government systems directly address actual or potential opportunities for fraud, waste and abuse in the system. These are detailed below.

Others among the 40 interfaces or cross-matches are simply means of sharing statistical and performance information that can be used to evaluate the program, design new features that will continue to improve program operations and integrity, or enable states and the U.S. Department of Labor to share best practices and outcomes. I have not detailed these as they seem to be less relevant to the purpose of the hearing and your follow-up question. However, I would be happy to provide information on those also if you wish.

The cross-matches and interfaces that directly address program integrity are:

1. **Alien Cert (*e.g., Systematic Alien Verification for Entitlements or "SAVE" Program) –** Source: Federal. This interface enables a real-time cross-match of the alien identification information collected during registration against the data available from the Verification Information System Agency to confirm claimants' authorization to work in the United States and their potential entitlement to benefits should they become unemployed. This interface enhances identity resolution and avoids improper payments.

2. **Social Security Administration (SSA)** – Source: Federal. This interface cross-matches personal information (i.e. name, sex, date of birth) associated with a specific Social Security number collected during registration with the information at SSA and flags claims that do not match. The interface also will alert us if the Social Security number provided during registration belongs to a deceased individual.. This will help combat identity theft by enhancing identity resolution.

3. **Appriss –** Source: Private. This interface enables a real-time cross-match of Social Security numbers collected during registration with the Appriss database of inmates in federal, state and local corrections facilities. Positive cross-matches are used to prevent payment until the claim is thoroughly investigated and properly adjudicated. This addresses fraud and abuse by enhancing identity resolution and avoiding payments to identify thieves or prisoners who are not eligible for UI benefits.

4. **Banking** – Source: Private. This interface transmits unemployment benefits to the bank for payment to claimants via direct deposit, agency-issued debit card or paper check. This interface reduces waste by reducing errors and automating labor-intensive services.

5. **Child Support (via Department of Children and Family Services or DCFS)** – Source: State. This interface transmits state court orders for mandated child support from DCFS to LWC. This allows us to withhold child support obligations of up to 50% of an individual's weekly benefit, and remit the withheld amounts to DCFS. This interface does not enhance the unemployment insurance system, but it reduces the burden on federal/state safety net programs operated by another state agency.

6. **DCFS Portal** – Source: State. This interface allows DCFS to query work registration, unemployment benefit and wage data in the LWC system to verify monetary and work registration requirements associated with its programs, such as TANF and SNAP. This interface addresses fraud, waste, and abuse by enhancing identity resolution, automating labor-intensive services and enforcing federal and DCFS eligibility requirements for safety net programs operated by that agency.

7. **Department of Health and Hospitals (DHH) Portal** – Source: State. This interface allows DHH to query unemployment benefit and wage data in the LWC system. It enables DHH to verify monetary requirements associated with health care programs and hospitals. This interface addresses fraud, waste, and abuse by enhancing identity resolution, automating labor-intensive services and enforcing federal and state eligibility requirements for healthcare/safety net programs operated by DHH.

8. **FileNet Imaging & Barcoding and Printing** – Source: Private. This interface produces forms on demand with the identity and other personal information of a particular claimant embedded in a barcode on each form. Responses mailed to LWC will be scanned and the interface will allow each response to be associated with the appropriate claim for review and adjudication, reducing waste by reducing errors. This interface also addresses fraud by greatly reducing opportunities for the theft of claimants' identities.

9. **LWC operates many Interstate Connection (ICON) interfaces, 11 of which directly address fraud, waste or abuse:**

    - **ICON for Federal Claims** – Source: Federal. This interface is used for all claims involving federal civilian or military wages. The Federal Claims Control Center sends military DD214 data to the requesting state and maintains control records to prevent assignment or use of the same federal civilian or military wages at the same time in multiple states. This interface facilitates the prevention of fraud, waste, and abuse by ensuring accurate data is used to adjudicate federal claims, and by preventing double dipping in multiple states.

    - **ICON IB4** – Source: Federal. This interface allows states to request wage data from each other when claimants have worked in more than one state.

    - **ICON IB5** – Source: Federal. This interface allows the secure sharing of claimant wage data requested in IB4. It also establishes each state's share of the liability for multi-state claims. This interface facilitates the prevention of fraud, waste and abuse by allowing states to flag wages that are being used to establish multiple claims in multiple states.

- **ICON IB6** – Source: Federal. This interface allows states to bill each other for their share of benefit payments to individuals with multi-state claims. This interface facilitates the prevention of waste by enabling the accurate assignment of claims liability among states.

- **ICON IB13** – Source: Federal. This interface allows states to share information on claimants' address updates, program changes and other issues. This interface facilitates the prevention of fraud, waste, and abuse by improving the sharing of critical claims information among states.

- **ICON IBIQ** – Source: Federal. This interface enables real-time queries of claims and wage records among states to determine if claimants who report that they worked in another state already have a claim pending in the other state using the same wages. This interface prevents fraud and abuse by preventing claimants from double dipping in multiple states.

- **ICON Interstate Cross-Match** – Source: Federal. This interface is a quarterly batch application to other states for information on particular Social Security numbers for wage and benefit information. It is used to detect potential fraud and overpayments.

- **ICON - IRORA /SIDCO** – Source: Federal. This interface allows states to share overpayment information so that benefit payments can be offset in one state to repay an overpayment made to the specific claimant by another state.

- **ICON SID** – Source: Federal. This interface allows for the immediate viewing of a listing of states that have wage, claim or overpayment information for a specific Social Security number. It helps states quickly identify wages earned in another state and can be used with IBIQ to obtain additional information to improve the integrity of claims processing.

- **ICON UCFE** – Source: Federal. This interface is used to verify the wage and separation information of federal civilian employees. By maintaining records of federal civilian wages, it also helps prevent their use in establishing claims in more than one state. This interface facilitates the prevention of fraud by blocking double dipping in multiple states.

- **ICON WIC2** – Source: Federal. The Withdrawal/Invalid Claim (WIC) Information program allows states to immediately share information about withdrawn or monetarily ineligible claims. This interface improves the states' management and processing of claims by individuals who work in more than one state.

10. **Investigations Portal** – Source: Private. Several interfaces and cross-matching programs will reside within this portal, and they are mentioned elsewhere in this list. In addition, this portal also will track employers who have failed to respond timely or adequately to agency requests for information.

11. **IRS Interface (1099-G)** – Source: Federal. This interface is used to transmit 1099G tax information to the IRS. It details the amount of benefits paid and federal taxes withheld for an individual for the calendar year.

12. **Louisiana Department of Revenue (LDR)** – Source: State. This interface allows LDR to offset state tax refunds of claimants with past due overpayment debt. This aggressive collection mechanism protects the solvency of the UI Trust Fund and also discourages claimants from attempting to defraud the system.

13. **Louisiana Department of Wildlife and Fisheries (LDWF)** – Source: State. This interface allows LWC to prevent claimants with fraud overpayments from renewing or obtaining recreational hunting and fishing licenses. This is used as both a fraud deterrent and collections tool.

14. **LWC Mainframe (for tax/charges)** – Source: State. This interface allows our new HIRE system to share LWC quarterly benefit charge data (quarterly charges and non–charges) and Social Charge totals by employer with our old mainframe system to enable accurate computation of UI taxes. This interface will not be needed once the mainframe tax system is replaced with a modern system, currently projected to be in 2017.

15. **NDNH (National Directory of New Hires)** - Source: Federal. This cross-match allows states to match their claimant files against a national database of newly-hired people. It helps prevent benefit payments to people who have returned to work but continue to file for benefits. All employers are required to report hew hires but many do not. This interface addresses fraud and abuse by quickly identifying ineligible unemployment benefits recipients.

16. **SDNH (State Directory of New Hires)** – Source: State. This cross-match allows states to match their claimant files against a Louisiana database of newly-hired people. It helps prevent benefit payments to people who have returned to work but continue to file for benefits. All employers are required to report hew hires but many do not. This interface addresses fraud and abuse by quickly identifying ineligible unemployment benefits recipients.

17. **SIDES (Separation Information Data Exchange)** - Source: Private and Federal. This interface promotes the electronic exchange of separation information with participating employers and third-party administrators to expedite the accurate processing and adjudication of claims. This interface addresses fraud, waste and abuse by enabling the speedy sharing of accurate separation information.

18. **TWC/IWR Interstate Work Registration** – Source: State. This cross-match between Louisiana and Texas matches information on each state's claimants who live in the other state, against the list of people who are registered with the other state's workforce system. Those who are not registered in their home state are disqualified from benefits in the other state, where they worked. Additionally, this system re-qualifies claimants once they have met their registration requirements. This interface addresses fraud, waste and abuse by automating labor-intensive processes and by verifying eligibility requirements.

19. **Wage Portal (LAWATS)** – Source: State. This portal cross-matches quarterly wage reports with claims data to detect potential fraud and overpayments by people who claimed benefits while working.

We believe these cross-matches and interfaces will take Louisiana to a much higher level of performance and integrity than is possible without such automation and sharing. We also continue to learn from other states' experiences and best practices and anticipate adding to this list as appropriate.

Please contact me again if you have any additional questions or if Louisiana can assist you in any way to drive further improvement in safety net programs.

Sincerely,

Curt Eysink

GAO Response to Questions for the Record from the House Committee on Ways and Means, Subcommittee on Human Resources' June 3, 2015 Hearing "Protecting the Safety Net from Waste, Fraud, and Abuse"

1. In your oral testimony you noted that SSA frequently relies on recipient self-reports for financial information that affects the eligibility and amount of their benefits. Please describe specifically the major types of self-reported financial information on which SSA relies. Are there limitations in the data SSA uses to verify self-reported information?

Self-reported information regarding financial institution accounts and wages were the major factors associated with causes of overpayments, accounting for about $1.7 billion (37 percent) of all SSI overpayments in fiscal year 2011.[1] Specifically, overpayments occurred because recipients did not report either the existence of financial institution accounts, increases in account balances, or monthly wages.

According to SSA figures, from fiscal year 2007 through fiscal year 2011, about 96 percent of the approximately $1 billion in annual overpayments associated with financial institution accounts were made because recipients failed to report either the existence of financial institution accounts or increases in account balances.[2] To verify self-reported data, SSA has historically relied on Internal Revenue Service (IRS) data to detect changes in financial institution accounts. SSA conducts periodic computer matches with the IRS's Form 1099 interest income data to independently verify recipients' financial accounts that may not have been reported. Although this match provides SSA with more information than if it relied exclusively on recipients to self-report their financial information, our prior work indicates that the IRS data can be up to roughly 2 years old by the time the match is conducted and the results reach SSA staff for follow-up. During this time, overpayments may accrue and become larger.

According to SSA figures, from fiscal year 2007 through fiscal year 2011, about 90 percent of the approximately $671 million in overpayments resulting from wages were made because recipients failed to report their monthly wages.[3] In addition to recipient reported wage information, SSA uses independent data from certain federal data bases to detect wages, including quarterly matches between SSI records and the National Directory of New Hires' wage data. SSA staff may also obtain additional information, such as the applicant's or recipient's pay slips, and use wage verification companies, such as The Work Number to verify recipient wages. However, information obtained from these sources can range from 6 months to 2 years old.

SSA has developed tools in recent years to obtain more comprehensive and timely financial information on SSI recipients' financial institution accounts and wages, but these tools have limitations. To improve its ability to detect and verify recipients' financial institution accounts, SSA implemented the Access to Financial Institutions (AFI) initiative that conducts electronic searches of about 96 percent of the financial institutions where SSI recipients have a direct

[1]Amounts are annual estimates based on 5-year averages from fiscal year 2007 through fiscal year 2011. Cumulative SSI overpayment debt nearly doubled from $3.8 billion in fiscal year 2002 to $7.3 billion in fiscal year 2011.

[2]This estimated overpayment is based on a sample and has 95 percent confidence intervals within plus or minus 20 percent of the estimate itself.

[3]This estimated overpayment is based on a sample and has 95 percent confidence intervals within plus or minus 20 percent of the estimate itself.

deposit account.[4] However, in our December 2012 report, we found that this initiative does not capture all relevant financial institutions, and SSA staff were generally not required to conduct these searches for recipients who, for example, report a lesser amount of liquid resources or do not report any financial accounts.[5] More recently, in May 2015, the SSA Office of the Inspector General (OIG) noted that despite SSA's implementation of the Access to Financial Institutions initiative, the dollar amount of overpayments associated with financial account information has increased over the last few fiscal years.[6] To help improve its ability to gather timely information on recipients' wages, SSA implemented the Telephone Wage Reporting system in fiscal year 2008 to allow recipients to call into an automated telephone system to report their monthly wages. However, the accuracy and completeness of information obtained through this system is limited because it also relies on unverified self-reported data, and the system is unable to process wage information for individuals who work for more than one employer.

2. Related to program simplification, are there some SSI program terms and conditions that are more complex and costly to administer than the savings they yield by limiting eligibility for benefits?

In addition to collecting documentation of income and resources to determine SSI benefit amounts, SSA staff must also apply a complex set of policies to document an individual's living arrangements and financial support being received—known as in-kind support and maintenance. These policies depend heavily on recipients to accurately report a variety of information, such as whether they live alone or with others; the extent to which household expenses are shared; and exactly what portion of those expenses an individual pays. Over time, these policies have become increasingly complex.

Although we have not completed an analysis to determine whether it is more costly to administer these rules than the savings they yield, we have noted that the complexity of SSI program rules pertaining to these areas of benefit determination is reflected in the program's administrative costs. In fiscal year 2014, SSI benefit payments represented about 6 percent of benefits paid under all SSA-administered programs, but the SSI program accounted for 33 percent of the agency's total administrative expenditures. In our prior work, we noted that staff and managers we interviewed cited program complexity as a problem leading to payment errors, program abuse, and excessive administrative burdens.[7] In December 2012, we also reported that the calculation of financial support received—in-kind support and maintenance—

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[4]This initiative provides SSA with independent data on a recipient's financial institution accounts for use in periodically redetermining their eligibility for payments.

[5]GAO, *Supplemental Security Income: SSA Has Taken Steps to Prevent and Detect Overpayments, but Additional Actions Could Be Taken to Improve Oversight*, GAO-13-109 (Washington, D.C.: Dec. 14, 2012).

[6]The OIG recommended that SSA continue (1) monitoring Access to Financial Institutions to ensure a positive return on investment and (2) researching other initiatives that will help to reduce improper payments in the SSI program. SSA agreed with the OIG's recommendations and noted that it is studying the effects of recent expansions of the initiative, including an increase in the number of undisclosed bank account searches performed and inclusion of more recipients with lower levels of liquid resources.

[7]GAO, *Supplemental Security Income: Progress Made in Detecting and Recovering Overpayments, but Management Attention Should Continue*, GAO-02-849 (Washington, D.C.: Sept. 16, 2002).

was a primary factor associated with SSI overpayments from fiscal year 2007 through fiscal year 2011.[8]

3. I note that SSI already includes a reduction in benefits for the second recipient when couples on SSI are married. Given the changing nature of households in the U.S., should Congress consider the merits of a similar reduction in benefits when two or more adults are living in the same household but not married?

Generally, if two members of a household receive SSI benefits, both members are eligible for the maximum amount of benefits, unless they are married. However, this benefit structure does not directly reflect savings that may result from multiple individuals—including two or more adults—sharing household expenses. Over the last two decades, various groups have proposed applying a payment limit to the benefits received by additional multiple-recipient households, and these proposals suggest various ways to structure such a limit. Regardless of the approach, if an adjustment is made to the benefits of multiple recipient households, implementation factors will need to be carefully considered, such as how to identify and begin tracking information on such individuals in SSA's data systems. Through our ongoing work for this Subcommittee, we will shed more light on the characteristics of multiple-recipient households and the potential administrative or other barriers to implementing a change in the amount of benefits received by these households.

4. I note in your testimony that SSA caseworkers can waive the recovery of overpayments of up to $2,000. Does SSA expect caseworkers to document the reasons why they waive such overpayments? Do we know which caseworkers do this more than others so we can detect patterns? Is $2,000 the right threshold for this sort of discretion, especially if this practice is as widespread as it seems from your testimony? Should that be lower?

SSA claims representatives, who are located in SSA's approximately 1,230 field offices, are required to document waiver determinations, including information on how the overpayment occurred, the rationale for the waiver decision, and supporting facts. Under the law, SSA claims representatives may waive an SSI overpayment when the recipient is without fault and the collection of the overpayment defeats the purpose of the program, is against equity and good conscience, or impedes effective and efficient administration of the program. To be deemed without fault, and thus eligible for a waiver, recipients are expected to exercise good faith in reporting information to prevent overpayments.[9] If SSA staff determines that a person is without fault in causing the overpayment, the staff then must determine if one of the other three requirements also exists to grant a waiver:

1. Specifically, SSA staff must determine whether denying a waiver request and recovering the overpayment would defeat the purpose of the program because the affected individual needs all of his/her current income to meet ordinary and necessary living expenses.

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[8]GAO-13-109.

[9]Incorrect statements that recipients know or should have known to be false or failure to furnish material information can result in a waiver denial.

2. To determine whether a waiver denial would be against equity and good conscience, SSA staff must decide if an individual incurred additional expenses in relying on the benefit, and thus requiring repayment would affect his/her economic condition. This could apply to recipients who use their SSI benefits to pay for a child's medical expenses and are subsequently informed of an overpayment.

3. Finally, SSA may grant a waiver when recovery of an overpayment may impede the effective or efficient administration of the program—for example, when the overpayment amount is equal to or less than the average administrative cost of recovering an overpayment, which SSA currently estimates to be $1,000.[10]

Claims representatives have the authority to approve such waivers, and SSA does not require supervisory review or approval for overpayment waivers of $2,000 or less. We have not conducted an analysis to determine whether $2,000 is the appropriate amount for a waiver threshold. However, according to the standards for internal control in the federal government, agencies must have controls in place to ensure that no individual can control all key aspects of a transaction or event. We previously recommended that SSA review the agency's policy concerning the supervisory review and approval of overpayment waiver decisions of $2,000 or less. In a recent review of 5,484 SSI waiver decisions in which SSA claims representatives waived overpayments of less than $2,000, SSA found that 50 percent of decisions were processed incorrectly, including decisions that were inadequately documented.[11] In light of our past findings and SSA's own recent analysis, we continue to have concerns that the lack of supervisory review for overpayment waiver decisions of $2,000 or less may be affecting program integrity.

Additionally, we have raised concerns about SSA's oversight of the waiver process on a national basis. In our December 2012 report, we reported that SSA did not analyze trends in the type, number, and dollar value of waivers granted, including those waivers below the $2,000 approval threshold that SSA staff can unilaterally approve, or determine whether there were waiver patterns specific to SSA offices, regions, or individual staff.[12] Without such oversight and controls in place, SSA is unaware of trends in the waiver process that may jeopardize the agency's ability to maximize its overpayment recovery efforts and safeguard taxpayer dollars. We recommended that SSA explore ways to strengthen its oversight of the overpayment waiver process. While the agency agreed with the intent of this recommendation, it cited resource constraints to creating and analyzing data at the level of detail specified in our recommendation. However, we continue to believe that, short of additional steps to better compile and track additional data on waiver patterns specific to SSA offices and individuals, SSA will be constrained in its efforts to recover identified overpayments.

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[10]This amount was increased to $1,000 in September 2008 and had previously been set at $500, beginning in December 1993.

[11]SSA, *Continuous Quality Area Director Review: Data Analysis Report Findings and Recommendations* (January 2015).

[12]GAO-13-109.

EQUIFAX WORKFORCE SOLUTIONS

June 23, 2015

Mr. Charles W. Boustany, Jr., M.D.
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Boustany,

Thank you for allowing me to testify on behalf of Equifax Verification Services at the Subcommittee hearing on June 3 regarding Protecting the Safety Net from Waste, Fraud, and Abuse.

My responses to your additional questions for the record follow:

Do you have estimates for what the compliance/noncompliance rate is for the NDNH? I am not aware of any official comprehensive report on new hire reporting of compliance/noncompliance rates for the NDNH by either the National Office of Child Support Enforcement (OCSE) or the USDOL. An unofficial comment was made in a meeting with the USDOL a couple of years ago that approximately 50% of employers respond, covering about 80% of employees, with a lag of weeks to months; however, I have no official statistics.

Why, in your opinion, do some businesses not comply? In my opinion and lacking a formal survey on employer noncompliance to new hire reporting, an anecdotal reason could be the reporting burden and the lack of penalties for noncompliance. While the new hire file for NDNH purposes requires only a handful of elements, states are free to require additional elements for SDNH purposes. In addition, since new hire reporting is administered in many states by their child support or human services agencies, employers might also be confused as to how improperly paid unemployment benefits fit in with child support enforcement.

What are some possible strategies for improving compliance? Successful strategies are dependent upon good statistics and feedback from stakeholders. In order to improve new hire reporting compliance, employers need to be surveyed about the pros and cons of their current experience. In addition, the OCSE and USDOL could compile and post statistical data, as they do with other areas of program performance. Assessment of penalties, similar to some States, could also improve compliance. Lastly, education to states regarding unemployment and child support initiatives and reporting which supports these initiatives may also be valuable.

Thank you again for the opportunity to provide further comments

Sincerely,

Debra Rohlman
Vice President, Government Solutions
Equifax Workforce Solutions

[Submissions for the record follow:]

Consortium for Citizens with Disabilities, Statement

CONSORTIUM FOR CITIZENS WITH DISABILITIES

STATEMENT FOR THE RECORD

Hearing before the
House Ways and Means Committee
Subcommittee on Human Resources

Protecting the Safety Net from Waste, Fraud, and Abuse
June 3, 2015

Statement submitted by the Co-Chairs of the
Social Security Task Force,
Consortium for Citizens with Disabilities

Submitted on behalf of the Co-Chairs of the Co-Chairs of the Social Security Task Force, Consortium for Citizens with Disabilities:

Kate Lang, Justice in Aging
Jeanne Morin, National Association of Disability Representatives
Webster Phillips, National Committee to Preserve Social Security and Medicare
TJ Sutcliffe, The Arc of the United States
Ethel Zelenske, National Organization of Social Security Claimants' Representatives

Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee, we are submitting this Statement for the Record as Co-Chairs of the Consortium for Citizens with Disabilities (CCD) Social Security Task Force, on "Protecting the Safety Net from Fraud, Waste, and Abuse."

CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 54 million children and adults with disabilities and their families living in the United States. The CCD Social Security Task Force focuses on disability policy issues in the Title II disability programs and the Title XVI Supplemental Security Income (SSI) program.

The focus of this hearing is extremely important to people with disabilities. SSI cash benefits, along with the related Medicaid benefits, are the means of survival for over 8 million individuals

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with severe disabilities. SSI benefits help people with significant disabilities meet their basic needs for housing, food, and clothing, and secure essential services and medical care. SSI benefits also play a central role in helping people with significant disabilities live in the community, rather than in restrictive, costly institutions.

Proper and timely application of the SSI financial eligibility criteria is important. The SSI program is a very complex program to administer.

Proper administration of SSI benefits is critical and has long been of interest to the CCD Social Security Task Force.

The SSI program is very complex and benefits can change each month due to income and resource fluctuations and changes in living arrangements. There are complex program rules and delays in receiving income data. The agency has struggled over the years to improve its accuracy rate for SSI payments – both for overpayments and for underpayments. Yet, the vast majority of payments are free of an overpayment or underpayment. Given the complexity of the statutes governing the disability programs and the volume of work, some overpayments are unavoidable. The complexity of the return-to-work provisions is exacerbated when a beneficiary receives both SSDI and SSI, because the beneficiary is subject to two different sets of rules. More than 30 percent of Title XVI beneficiaries aged 18-64 also receive Title II benefits.[1]

While the Social Security Administration (SSA) recognizes that the SSI program rules are challenging for administrators of the program, we believe that the program is much more difficult for SSI beneficiaries to understand and follow accurately. SSI applicants and beneficiaries are under tremendous financial stress when they apply for SSI and while they are using SSI benefits (the maximum federal SSI benefit of $733 per month pays only about 75 percent of the federal poverty level for an individual). They often experience other stressful situations, including food insecurity, possible homelessness, and personal and family crisis due to economic hardship. For some, the very disability for which they have turned to the SSI program adds its own pressures to the situation and, in some cases, makes navigating the complexity of the SSI program extremely difficult.

For these reasons, we believe that SSA must exercise caution to ensure that beneficiaries are protected, particularly where they are unable to navigate the system and need assistance in correcting errors. While there may be ways to improve the process from the perspective of the Administration, the bottom line evaluation must be how the process affects the very claimants and beneficiaries for whom the system exists. We believe that the critical measure for assessing initiatives for achieving administrative efficiencies must be the potential impact on claimants and beneficiaries. Proposals for increasing administrative efficiencies must bend to the realities of beneficiaries' lives and accept that people face innumerable obstacles when they apply for and rely upon disability benefits. SSA must continue, and improve, its established role in ensuring that beneficiaries are fully protected in the process and must design its rules and procedures to reflect this administrative responsibility.

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[1] Table V.F1. Percentage of SSI Federally-Administered Recipients in Current-Payment Status with Participation in Selected Programs Based on SSA Administrative Records, December 2013. Social Security Administration, *2014 Annual Report of the SSI Program*. http://www.socialsecurity.gov/oact/ssir/SSI14/V_F_OtherPrograms.html.

Update the SSI asset and savings limits

For many years, the Task Force has recommended that Congress increase the SSI asset limit and income disregards and index them annually for inflation. The monthly unearned income disregard for an individual has remained at $20 and the earned income disregard for an individual has remained at $65 plus one-half of remaining earnings since the inception of the SSI program in 1972.[2] Similarly, the SSI asset limit of $2,000 for an individual or $3,000 for a couple has not changed since 1989. Neither the income disregards nor the asset limit are indexed for inflation.

The extremely low income disregards mean that many SSI beneficiaries' earnings trigger an overpayment for even relatively modest amounts of work. Nearly half (about 43 percent) of SSI beneficiaries who work earn less than $200 per month.[3] Increasing the earned income disregard and indexing it for inflation would help beneficiaries and make it easier for them to work. For SSA, it has the potential to reduce the agency's administrative workload for these low-wage earners, reduce overpayments, and perhaps lead to administrative savings.

Raising the asset limit and income disregards will also provide working beneficiaries the opportunity to save for home ownership, education, or retirement, and will protect their access to Medicaid.

For these reasons, we recommend raising both the asset limit and income disregards to the amounts that they would have been if indexed since their inception. A recently introduced bill, H.R. 2442, the "Supplemental Security Income Restoration Act of 2015" would increase the resource limit and income exclusions for SSI beneficiaries.

Adequate resources for program integrity activities

The integrity of the Social Security and SSI disability programs must be protected and cases of true fraud should be uncovered. However, we are always concerned about the potential effect that major changes in the SSI and Title II disability programs would or could have on people with disabilities, particularly those with cognitive or mental impairments. In the fraud and abuse context, our concern is that claimants and beneficiaries must be treated fairly and be given consideration whenever their impairments might influence their understanding of their actions or the consequences of their actions. It is with those concerns in mind that we approach all proposals addressing fraud and abuse

SSA must have sufficient resources to meet the service needs of the public and ensure program integrity. SSA's administrative budget is less than 1.3 percent of benefits paid out each year.[4] With the baby boomers entering retirement and their disability-prone years, SSA is experiencing dramatic workload increases at a time of diminished funding and staff. Over Fiscal Years (FY) 2012-2013, Congress appropriated $421 million less for SSA's program integrity efforts (such as

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[2] U.S. House of Representatives, Committee on Ways and Means (2008) *Background Material and Data on the Programs within the Jurisdiction of the Committee on Ways and Means*.
[3] Table 46. Blind and disabled recipients who work and their average earnings, by selected characteristics. Social Security Administration, December 2013. *2014 Annual Report of the SSI Program.* http://www.socialsecurity.gov/policy/docs/statcomps/ssi_asr/2013/sect07.html#table46.
[4] Source: http://ssa.gov/budget/FY16Files/2016BO.pdf, p.7.

medical and work Continuing Disability Reviews and Title XVI redeterminations) than the Budget Control Act of 2011 (BCA) authorized. Over the last three years, SSA has received nearly $1 billion less for its Limitation on Administrative Expenses (LAE) than the President's request, and by the end of FY 2013 lost over 11,000 employees since FY 2011. In FY 2015, SSA received $218 million less for LAE than the President requested.[5] This lack of funding has significant implications for SSA's ability to perform its program integrity and other workloads. The President's FY 2015 budget request would have allowed SSA to complete 98,000 more Continuing Disability Reviews (CDRs) and 367,000 more SSI non-medical redeterminations this fiscal year than the agency now plans to perform.[6]

Adequate LAE is essential to preventing service degradation and ensuring that SSA can provide timely and accurate payments and perform necessary program integrity work. While we support bills that increase the amount of program integrity work that SSA will perform, it is necessary to increase the funding SSA receives by a commensurate amount in order to prevent further degradation of SSA's customer service due to trade-offs that would need to be made to accommodate a growing program integrity workload. We have significant concerns about provisions that increase the program integrity workload without providing SSA increased resources to complete those activities.

Pending legislation

Several recently introduced bills were discussed at the hearing. We have concerns about the possible negative impact these bills could have, if enacted, on people with disabilities who are applying for or receiving Title II benefits or SSI disability benefits. Our concerns include, but are not limited to, the following.

- **H.R. 918: The "Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act of 2015"**

Members of CCD and other organizations have expressed opposition to proposals to eliminate or reduce concurrent Social Security Disability Insurance (SSDI) and Unemployment Insurance (UI) benefits, including H.R. 918.[7]

SSDI and UI are vital insurance systems established for different purposes. Receiving UI and SSDI concurrently is legal and appropriate. This has been the long-standing position of the Social Security Administration and of the courts. Individuals qualify for SSDI because they have significant disabilities that prevent work at or above Social Security's Substantial Gainful Activity level (earnings of $1,090 per month, in 2015). At the same time, the Social Security Act encourages SSDI beneficiaries to attempt to work, and those who have done so at a low level of earnings but have lost their job through no fault of their own may qualify for UI. As highlighted in a 2012 Government Accountability Office report, less than one percent of individuals served by SSDI and UI receive concurrent benefits, and the average quarterly concurrent benefit in fiscal year 2010 totaled only about $3,300 (or an average of $1,100 per month).

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[5] Source: http://ssa.gov/budget/FY15Files/2015BO.pdf, p. 8, and http://ssa.gov/budget/FY16Files/2016BO.pdf, p.8.
[6] Source: http://ssa.gov/budget/FY15Files/2015BO.pdf, p. 9 and http://ssa.gov/budget/FY16Files/2016BO.pdf, p.9.
[7] See http://www.c-c-d.org/fichiers/CCD-Letter-DI-UI-03-17-15FINAL.pdf.

These extremely modest benefits can be a lifeline to workers with disabilities who receive them, and their families – and as permitted by law are neither "double-dipping" nor improper payments. We are deeply concerned by any prospect of worsening the economic security of workers with disabilities and their families.

In addition, proposed cuts to concurrent benefits single out SSDI beneficiaries with disabilities, treating them differently from other workers under the UI program.

Finally, proposed cuts to concurrent benefits create new disincentives to work for SSDI beneficiaries, by penalizing individuals who qualify for both SSDI and UI because they have attempted to work, as encouraged by law. The creation of a new work disincentive runs directly counter to our shared goal of expanding employment opportunities for people with disabilities.

- **H.R. 2511: The "School Attendance Improves Lives (SAIL) Act"**

This bill would suspend SSI benefits for SSI childhood disability beneficiaries who are 16 and 17 years old if they miss a specified amount of school without appropriate medical documentation. The SAIL Act would require SSA to evaluate school attendance on a monthly basis, providing exceptions only for good medical cause. Youth who receive SSI may experience school absences for many legitimate reasons, and could experience significant hardship due to loss of benefits under the SAIL Act.

We are troubled that the bill does not take into account a number of concerns, including: (1) the impact of any benefit cuts on children receiving SSI; (2) reasons why these children receiving SSI benefits might have difficulty documenting excused absences as required by the bill; (3) additional reasons children might not attend school; and (4) the administrative burden the bill would place on SSA.

- **H.R. 2504: The "Control Unlawful Fugitive Felons (CUFF) Act"**

This bill would prevent individuals from receiving Social Security or SSI benefits if there is an outstanding arrest warrant for (1) alleged commission of a felony or a crime punishable by imprisonment of more than one year; or (2) alleged violation of a condition of probation or parole.

Currently, law enforcement agencies provide information to the SSA Office of Inspector General (OIG) on people who have outstanding felony arrest warrants for escape, flight to avoid prosecution, or flight-escape or who have violated conditions of probation or parole. SSA then compares the information to its files of people receiving SSI and Social Security benefits. If there is a match, the OIG works with law enforcement to attempt to locate the person and refers to SSA cases for suspension of benefits.

Suspension and/or denial of benefits based on an outstanding arrest warrant was SSA's previous policy implementing the SSI prohibition (enacted in 1996) and the Title II prohibition (enacted in 2004). Litigation challenging the agency's policy of relying on an arrest warrant ultimately resulted in court decisions finding the policy illegal and led to a change to comply with the court orders. If Congress enacts H.R. 2504, it would return SSA to a policy that was overly broad and led to much unintended harm to elderly and disabled beneficiaries.

SSA's initial implementation of the benefits suspensions was overly broad and likely more inclusive in its reach than originally intended. Of the more than 100,000 SSI beneficiaries affected (prior to the 2004 extension to Title II beneficiaries), a disproportionate number of them had serious mental impairments. Also, many were homeless. For people with mental impairments, including cognitive limitations, the beneficiary may not be aware of the violation, may not have understood the terms of parole or probation, or may have other misunderstandings about his/her legal status. A significant percentage of these cases involved relatively minor crimes that were committed many years ago and which prosecutors had no intention of pursuing.

Also, the agency's prior "bright line" approach, i.e., suspending payment of benefits solely on the basis of an outstanding warrant, was subject to procedural irregularities in many field offices around the country. There were many reports from advocates that beneficiaries were discouraged from filing appeals or outright denied the right to appeal by field office workers because the beneficiaries were presumptively deemed ineligible because of the mere existence of the outstanding warrant. While we recognize that denying these important due process rights is not consistent with SSA policy, the adoption of the "outstanding warrant" standard did play a role in the improper denial of appeal rights.

Conclusion

We look forward to continuing to work with the Members of the Human Resources Subcommittee to explore ways to improve the SSI program and to protect the vital income support function the program provides for some of the most vulnerable Americans.

Submitted on behalf of the Co-Chairs of the Co-Chairs of the Social Security Task Force, Consortium for Citizens with Disabilities:

Kate Lang, Justice in Aging
Jeanne Morin, National Association of Disability Representatives
Webster Phillips, National Committee to Preserve Social Security and Medicare
TJ Sutcliffe, The Arc of the United States
Ethel Zelenske, National Organization of Social Security Claimants' Representatives

Justice in Aging, Statement

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

STATEMENT FOR THE RECORD

House Committee on Ways & Means
Hearing of Subcommittee on Human Resources
"Protecting the Safety Net from Waste, Fraud and Abuse"
June 3, 2015

Statement Submitted on Behalf of Justice in Aging

Justice in Aging (formerly known as the National Senior Citizens Law Center) is a national organization that advocates for the interests of low income older Americans. Ever since our founding in 1972 this has included a strong focus on the Social Security and Supplemental Security Income (SSI) programs which provide the core financial support for older Americans.

We submit this statement to express our concern about H.R. 2504, the "Control Unlawful Fugitive Felons (CUFF) Act" and the inevitable harm that would result to hundreds of thousands of seniors and people with disabilities if it were to become law. The bill would essentially legalize the former policy of the Social Security Administration (SSA) to suspend or deny benefits to anyone with an outstanding warrant for a felony or for an alleged violation of probation or parole.

Justice in Aging was counsel to plaintiffs in several successful court challenges to SSA's former policy including *Martinez v Astrue* and *Clark v Astrue*, the two class actions that required the agency to change its policy. It is important to look closely at the results of this litigation. There are two parts to the legislation that established the so-called "fugitive felon"[1] program. One part allows SSA to provide information to law enforcement on the whereabouts of people with outstanding warrants. When we filed these cases we decided not to challenge this part of the legislation as we had no interest in hampering the work of law enforcement and were only interested in preventing the loss of essential benefits for people who, for the most part, had few other resources. That part of the law is still in effect and, as far as we know, the SSA Office of Inspector General is still doing the data match and forward information to law enforcement when it makes the match.

[1] Most of the affected individuals are neither fugitives nor felons.

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The other part of the law, as currently written, provides for benefits suspension when someone is fleeing to avoid prosecution for a felony or is violation of probation or parole. In *Martinez*, we agreed to exclude three National Crime Information Center (NCIC) warrant codes from the settlement because each of these NCIC codes involved an element of "escape" or "flight" and were thus the ones that were likely to be fugitives.

The CUFF act would do nothing to assist law enforcement, while at the same time it would result in a significant increase in administrative costs for SSA. It would do nothing for law enforcement because the only people who would lose benefits would be those who law enforcement has decided not to pursue after being told where the individual resides. That means they tend to be people accused of minor offenses or offenses from many years ago or for which it is clear that law enforcement does not have sufficient evidence. A significant number of those whose benefits would be suspended are people who don't have the money to pay a fine or increasingly common probation supervision fees. They are also often in distant jurisdictions. Cutting off essential benefits will not help people resolve these outstanding warrants.

In addition to our work in *Martinez* and *Clark* we provided important advice and support to attorneys all across the country who were representing individuals in similar cases. We also came to be contacted directly by many affected individuals, especially in connection with our representation in *Martinez* and *Clark*. In this role we learned something much more important than our legal expertise. We came to see the terrible human impact that this policy has.

There were the multiple calls from a homeless veteran in Nevada wondering when his benefits would be restored so he could find a place to live.

There was the single father in Florida who was working and raising two children on his own until he was stuck by a car while crossing the street and left paralyzed. He ended up in a nursing home. Fortunately his parents were available to take care of his children and he received a monthly Social Security Disability Insurance (SSDI) benefit that he was able to give to his parents to pay for part of the cost of caring for the children. This was hard enough for all concerned, but the situation became far worse his SSDI was stopped because of an old warrant he knew nothing about, dating back to when he was a college student in Massachusetts. In this instance the result was catastrophic for three generations, two young

children, the father and the grandparents who thought they were going to have a financially secure retirement.

In another case Judge Mary Morgan of San Francisco County Superior Court reported a case brought before her involving a 50 year old AIDS patient for whom a bench warrant had been routinely issued when he failed to appear for a court date. Medical records indicated that he had been in a coma not long before the warrant was issued. He was able to breathe only with a long plastic tube surgically inserted in his throat and connected to an oxygen tank attached to his wheelchair. By time the case was brought before her his SSI and his SSI-linked Medicaid had been suspended for several months and the medical supply company indicated they would no longer supply the equipment if he was not able to pay for it.

JH is a young man in California with an intellectual disability and other mental impairments whose SSI benefits were stopped because of an Ohio warrant issued when he was 12 years old and running away to escape an abusive stepfather. The 4'7" tall, 85 pound boy was charged with assault for kicking a staff member at the detention center where he was being held until his mother could pick him up. He had no recollection of the incident.

In another case in California, a man in San Francisco had his SSI benefits stopped because of an old warrant from South Carolina for the "crime against nature."

Some of the warrants are extremely old. TG in Oregon had his Social Security Old Age benefits suspended because of a warrant issued in Los Angeles when he was a teenager for unauthorized possession of a motor vehicle. The underlying offense had actually been cleared up years ago. In another case, a Los Angeles man faced loss of his Social Security benefits because of an Ohio warrant from the 1950s.

A common scenario was where benefits were suspended because a warrant was issued after criminal charges were filed for a bounced check. In these cases, the individual was usually unaware that the charges had been filed until many years later when their Social Security or SSI benefits were suspended. In one such case an Arkansas woman reported that her SSI benefits were stopped because of a bounced check written in Washington State in the 1970s on a joint account with her ex-husband. Her SSI-linked Medicaid benefits were also stopped and her

inability to receive medical care may have contributed to her becoming blind in one eye. She too knew nothing about the criminal charges.

In another case, MD, a Connecticut resident had her SSI benefits stopped because of an 18 year old warrant she knew nothing about which had been issued when she was in a Job Corps program in Massachusetts. The charge was "assault with a shod foot" for kicking a Job Corps counsellor who was trying to restrain her.

In short the result of passage of the CUFF Act would be irreparable injury to some of the very people that the Social Security and SSI programs were designed to benefit. At the same time there would be no benefit to law enforcement which already gets the information it needs to pursue people if it is interested. In the meantime considerable additional administrative expenses would be placed on an already overburdened Social Security Administration.

An Appendix is attached with additional examples illustrating the impact of suspending benefits on the basis of an outstanding arrest warrant. This was previously submitted as an appendix to a statement submitted to the Senate Committee on Finance when it was considering the Social Security Protection Act (HR 743) in 2003.

APPENDIX

"FUGITIVE FELON" EXAMPLES

1. **Flight to a Nursing Home** - In April, 1978, J.B. of Macon, Georgia, was sent to Seattle, WA as part of his job as a telephone installer/repairer. After he settled into his motel his employer notified him that the job fell through and that he would not receive the advance pay he had been told he would receive. He had no money to pay the motel bill and the innkeeper seized all his belongings when he left to go to his next assignment in Portland, OR. As far as he was concerned, that was the end of the unpleasant episode. What he did not realize was that in August, 1978, long after he left Seattle, the motel owner filed criminal charges for fraud against an innkeeper for his failure to pay the bill and that in August, 1978 a Seattle Justice Court issued a warrant for his failure to appear on the charge. He was not aware of the warrant or the criminal charges filed against him until October, 2001, by which time he was residing in a nursing home. At that time, both his SSI and Social Security[1] benefits were terminated because he was allegedly fleeing to avoid prosecution. He was also sent an overpayment notice for all benefits received since October, 1998. In January, 2002, he obtained representation from a legal services office, which, in turn, contacted the Office of the King County Public Defender. The public defender brought the matter to the attention of the court in Seattle, which then dismissed the charges in February, 2002. SSA then agreed to restore benefits prospectively, but refused to concede entitlement to benefits for the period before dismissal of the charges and continued to pursue the overpayment. In September, 2002, an ALJ reversed the determination finding that J.B. was not notified of the criminal case and found there was justification for his conduct in leaving Washington.

2. **Flight to Care for an Ailing Grandfather** - M.G. of Richmond, CA is a California native who receives SSI on the basis of the combined effects of a developmental disability and mental illness. In 1981, at age 14 she moved to Virginia with her mother who was transferred there by the U.S. Navy. She remained there until June, 1990 when she moved back to California with her mother who needed to return to care for M.G.'s ailing 86 year old grandfather, whose wife had just died. However, in May, 1990, before she left Virginia, she was charged with unauthorized use of a motor vehicle. After her arrest, there was a fire in the courthouse resulting in the courthouse being closed because of asbestos contamination on the day later in May when she was scheduled to appear. She then moved to California in June and states that she did not receive notice of a new court date. In December, 2001 she was notified that her benefits would be terminated. She requested reconsideration by means of a formal conference at which she would be able to present witnesses, cross-examine adverse witnesses and see any documentary evidence the agency has. However, she was denied her right to a conference. Instead SSA just sent her a Notice of Reconsideration affirming the original decision without stating any reasons. Her benefits were then discontinued in February, 2002. On April 26, 2002 an ALJ reversed the agency's decision to terminate benefits, stating that he found the facts in her case to be "compelling" and noting that she had a reason for returning to California and was now experiencing "considerable hardship." Nevertheless the Appeals Council took the case on own motion review and in July, 2002 reversed the ALJ decision. The Appeals Council cited undisclosed "Social Security Administration

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[1] Title II benefits are not covered by the current fugitive felon provisions and those benefits were soon restored after a legal services office in Georgia intervened.

guidelines" for the proposition that whenever there is an active felony warrant, "the claimant is assumed to be a fugitive felon." M.G. has now been without benefits for a full year and has had to rely on the kindness of members of her church. She has appealed her case to the U.S. District Court, but a determination is not likely before summer. M.G. has no money to be able to return to Virginia to defend the charges.

3. **Mistaken Identity** - J.G. is a severely ill AIDS patient in San Diego, CA who is unable to leave his home because of severe respiratory problems. He has an extremely common name which also happens to be the name of a serial offender in Los Angeles who was born on the same day he was. J.G. is a Mexican immigrant who has never had criminal charges filed against him either in Mexico or in the United States. He has also never been to Los Angeles which is where all the offenses have occurred. When his benefits were terminated, it was ascertained that all of the offenses were alleged to have taken place in Los Angeles and that the defendant, while having the same name and birth date, had a different Social Security number. Nevertheless, he was told that the warrant would have to be satisfied for benefits to be restored. Fortunately for him, the police in Los Angeles did catch up with the other J.G. and put him behind bars for a period, thus causing the warrant to be recalled. SSA then restored benefits to J.G. in San Diego. However, J.G. in Los Angeles is apparently on the loose again and J.G.'s benefits in San Diego have once again been terminated.

4. **Mistaken Identity** - G.A., a Mexican-American woman from California, had her SSI benefits terminated based on a warrant from Massachusetts although she had never been to the East Coast. With the assistance of a public defender working with a legal services lawyer in California, benefits were restored when it was established that the defendant in Massachusetts, who had the same name, was Puerto Rican and was in fact a different woman.

5. **Shoplifting** - J.G., a Connecticut resident, returned to his native Georgia for his mother's funeral over ten years ago. At the time he was drug addict and his life was a shambles. He had no money and nothing to eat. He was charged with shoplifting. However, he was unable to stay to respond to the charges because he had no place to stay and no money to live on. Instead he returned to Connecticut. In the intervening decade he has become a different person and has kicked his drug habit. However, he has AIDS and is unable to work and was receiving SSI because of his AIDS diagnosis. His SSI benefits were terminated last year because of the pending Georgia warrant. He is waiting for an ALJ hearing and still has no benefits. He is financially unable to return to Georgia to defend the charges.

6. **Hazy Memories of a Visit to New York** - L.G. is a Texas resident who had her benefits terminated in early 2002 based on a warrant from New York City. She clearly recalled visiting New York over twenty years ago but her serious mental limitations made her a very poor historian and she was unable to recall anything about the alleged incident. However, a dogged pro bono attorney in a law firm in Houston enlisted the assistance of a Legal Aid Society lawyer in New York and they discovered that the underlying charge from over twenty years ago was for fourth degree larceny involving an undisclosed item valued at $7.00 and that the charge was not a felony. Thus it clearly does not fall within the purview of the statute. However, that did not end the matter. The attorney representing L.G. reports that it took over a month of persistent haggling to finally restore benefits in November, 2002.

Many attorneys and other advocates report similar experiences with clients whose severe impairments prevent them from providing an adequate account of the circumstances surrounding the warrant.

7. **No knowledge of charges** - C.C. is a Cambodian refugee who arrived in the United States in 1981 and settled in Allston, Massachusetts. He remained there until 1985 when he and his family moved to San Francisco. Their departure 18 years ago was a case of flight to escape the cold winters of the Northeast. He began receiving SSI in 1989 and now resides in Antioch, CA, outside of San Francisco. He was unaware of any criminal charges until he received a notice dated June 26, 2002 telling him his benefits would be terminated because he was a fugitive felon. Benefits were terminated on July 1 without any opportunity for reconsideration.

With the assistance of both a public defender and a legal services lawyer in Massachusetts, documentation was obtained from the Brighton Municipal Court where the charges were filed. The court records show that the charges were for welfare fraud and were filed on September 1, 1988, three years after C.C. left Massachusetts. The reason given for issuance of the warrant was that the prosecutor had indicated that the defendant "may not appear unless arrested."

C.C. requested reconsideration of SSA's decision in July. SSA promptly responded with a notice stating "we are not reconsidering your claim since the principal issue is that we received an Office of Investigations notification that you are a fugitive felon." The notice goes no to state "you will need to clear up this warrant before SSI benefits are reinstated." He has had no benefits since June of last year and has no funds to return to Massachusetts to respond to the charges. He is currently awaiting an ALJ hearing.

8. **No criminal charges** - C.B. is a Los Angeles resident who lost his SSI benefits because he is alleged to be a "fugitive felon" on the basis of a warrant in a child support case in Chicopee, Massachusetts. Since child support proceedings are not criminal proceedings, they clearly do not fall within the statute and the matter should be resolved.

9. **Contract dispute** - J.G. is a 69 year old man currently residing in California who lost his SSI benefits in September, 2001 because he was determined to be a fugitive felon. He had been receiving benefits on the basis of disability since 1996. He lived in Nebraska in 1992 and that year entered into a contract to do some carpentry work for which he was given a $2,000 advance. In the fall of that same year he moved to Colorado prior to completing the work. However, before he left Nebraska, he met with the property owner and a friend of his who agreed to complete the work. The three of them agreed to the terms and he paid the friend the $2,000 advance and left for Colorado. In May, 1997 the owner of the property wrote to him in Colorado alleging that the work was never completed and that J.G. owed him $2,000. J.G. agreed to pay $75 per month with the understanding that criminal charges would not be filed. He was only able to continue this for a few months on his limited SSI income. It was only when his SSI benefits were stopped in 2001 that he learned that criminal charges that had been filed against him in Nebraska on Dec. 29, 1993, more than a year after he left the state.

After spending a year without SSI benefits, J.G. received an ALJ decision restoring his

benefits in September, 2002. The ALJ noted that J.G. was unaware of the criminal charges, that the County Attorney's office in Nebraska had declined extradition and that J.G. could not afford to travel to Nebraska to defend the charges.

10. **Flight to a Nursing Home** - L.B. has had three heart attacks and is another nursing home resident in Macon, Georgia. She was threatened with termination of benefits in July, 2001 for failure to appear on a charge of filing a false instrument in Elmira, NY that dated to 1979. Prompt coordinated action by a legal services lawyer in Georgia, and the public defender and the District Attorney in Elmira resulted in a judge promptly dismissing the charges in the interests of justice in August, 2001 and benefits continuing.

11. **Flight to a Nursing Home** - In yet another case of flight to a nursing home, also in Macon, Georgia, M.F. had been accused of fleeing to avoid prosecution for an eleven year old burglary charge in Texas. A legal services advocate in Georgia obtained verification that the charges in Texas had been dismissed and benefits were promptly restored.

Northeast Michigan Community Mental Health Authority, Letter

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6-15-15

To: House Ways and Means Committee

Re: Hearing, Social Security Administration's management of earning reports.

To whom it may concern,

I'm concerned about the hearing that is scheduled on June 16, 2015. Before the Ways and Means committee makes a recommendation regarding work incentives and benefit reporting, maybe you should know what really goes on.

First, let me tell you what my vested interest is in this hearing. I am a Supported Employment Coordinator/Supervisor for a program that provides assistance to adults with mental illness who wish to return to work. My program follows the Evidence Based Individual Placement and Support program. Our program has an extremely high placement rate. Out of the 135 people that we have served since the inception of our program in 2011, we have a 47% placement rate.

Of the 47% who have become employed there has been only two incidents of payback. These paybacks occurred, not because of time worked or income made, but because of other issues related to something other than employment.

We can account for our success of no paybacks because myself and my staff have taken benefits training which includes SSA work incentives, Ticket to Work and all Dept of Human Service changes that they can expect such as Freedom To Work Medicaid.

Upon meeting with new enrollees into our program, my staff explain to the new enrollees that one of the supports that we provide to them is to help them to report to Social Security and DHS once they become employed. This way, there are no paybacks.

Roadblocks to successful return to employment come from two sources, the Social Security Administration and the lawyers hired to help individuals receive disability benefits. I have spoken to several SSDI and SSI recipients who have told me that they have been told by SSA workers not to work more than 20 hours a week or to stay just before Substantial Gainful Activity of $1070 so that their SSDI isn't suspended. This is

wrong. Many of our consumers feel that it is their path to recovery to become free from disability payments. They know that if they become sick that there is an accelerated process for them to return to full benefits. Along with SSA telling our consumers not to work full time, we have Disability lawyers who discourage our consumers from working during their disability appeal process. I have been present when they have told SSA judge that their client is incapable of working and that they believe that this will be a lifelong disability. I personally wish that the SSA judges would call the lawyers out on their blatant lies.

So how do we fix the problem that is occurring at SSA? We need to continue to encourage disabled people to work and provide more monetary supports to programs such as my own to help with the reporting process.

Respectfully Submitted,

Mary Mingus, LMSW

Employment Solutions, Employment Coordinator/Supervisor

Stephen A. McFadden, Statement

Committee on Ways & Means, Subcommittee on Human Resources
U.S. House of Representatives
1102 Longworth House Office Building
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June 17, 2005

U.S. House Ways and Means Committee Human Resources Subcommittee:
Protecting the Safety Net from Waste, Fraud, and Abuse:
June 3, 2015 Hearing

Statement of Stephen A. McFadden, M.S., Bethesda, MD

Texas DDS State Agency Medical / Psychological Consultants' Piece Rate Compensation Violates Many Social Security Disability Claimants' U.S. Constitutional and Civil Rights to Due Process and Equal Protection of the Laws:

I. Introduction:

I appreciate the Subcommittee on Human Resources holding this hearing "Protecting the Safety Net from Waste, Fraud, and Abuse." I testify here today on behalf of myself, a former student who worked in U.S. nuclear fuels and weapons labs, about how I feel operation of the Texas Disability Determination Services (DDS), which determines disability claims on behalf of the Social Security Administration (SSA) at the initial and reconsideration levels for all Texas claimants at their central office in Austin, has over the past 3 decades systematically prejudiced determinations they make on Social Security disability claims, and further compromised the evidentiary basis for subsequent determinations made by SSA Administrative Law Judges (ALJs) at its Offices of Hearing and Appeals (OHAs) in Texas. More on that later, because I'd like to start with my key point:

II. Piece Rate Compensation of Texas State Agency Consultants Violates Due Process:

The piece rate compensation pay structure for Texas DDS State Agency Medical Consultants (SAMCs) and State Agency Psychological Consultants (SAPCs) of a small fee paid per claim or file evaluated or determined at the initial and reconsideration levels leads to biases in disability determination which violate many Texas Social Security disability claimants' U.S. Constitutional and Civil Rights to due process and equal protection of the laws.

I'll use old data because that is what is available, and the piece rate pay structure-started at the Texas DDS in 1998-is the issue. In the 2003-5 era the Texas DDS piece rate SAMC/SAPC compensation rate was $13 per claim or file.[1] The Texas Historically Underutilized Businesses (HUB) web site retrospectively lists Texas state contractors paid over $100,000,[2] while the Texas Department of Assistive and Rehabilitative Servies (DARS), and its predecessor agency the Texs Rehabilitation Commission (TRC) prospectively lists contracts, often biennial, that may exceed $100,000, including many DDS contractors.[3]

Texas DDS SAMC "S.S.," one of about 40 TRC-DDS consultants budgeted to earn more than $100,000 during that era, was paid $357,889 in FY 2004,[4] but we note the HUB Report payments for FY 2002 of $303,376.50 and FY 2003 of $296,966; they were a contractor at the Texas DDS as of 2015. SAMC

1 Texas Public Information Act (TPIA) Rq DARS Resp October 2004: 2003 SAMC contract, current FY 2005.
2 Search "538" at: http://comptroller.texas.gov/procurement/prog/hub/
3 http://www.dars.state.tx.us/business/consumer_contracts.shtml . As of 2015, 65 are listed.
4 TPIA Rq DARS Resp April 2005: SAMC/SAPC incomes and fee schedule.

"M.D." earned $341,196 in FY 2004; their FY 2003 HUB Report payment was $321,050.50; they last contracted at the Texas DDS in 2010. This suggests that these SAMCs were evaluating or determining around 22-26,000 claims or files per year during this era. If they worked a typical 2080 hour year without overtime or bonuses, they probably were evaluating one claim about every 5-6 minutes.[5]

When the SAMC or SAPC determining Social Security disability claims for a State Agency spends an average of 5 or even 10 minutes per claim file while processing tens of thousands of claims over the course of a year, there are certain biases that may develop. These include biases against claims for complex, chronic, or the combination of multiple medical conditions; claims with medical evidence that is uncommon, difficult to interpret, or requires the association of multiple test results of different types or over time; claims for conditions whose origin is obscure or unknown or effects subtle; claims which involve functional or vocational factors; claims with multiple treatment sources; claimants who reopen claims; and a bias against large claim files in general. In short, the piece rate compensated SAMC physician or SAPC psychologist, when faced with a large claim file—perhaps hundreds of pages, may be tempted to simply check a box or scrawl on the determination sheet "not severe" or "insufficient evidence through DLI" (Date Last Insured) to earn their few dollars and go on to the next claim, thus depriving the claimant with a large file of the substantive due process required under the Social Security Act.

This also means that claims are developed—which is what they call the process of creating the claim file, including requesting medical records, receiving, sorting, and prioritizing them, and possibly culling those they deem unimportant—by State Agency Disability Examiners ("DEs") with no medical background and about six weeks of training. It is a reasonable inference, given the case flow, that State Agency Consultants may often not see the file until it has been prepared by these non-medical personnel and is ready for determination—as that might result in another consulting fee expense.

The file of a claimant who appeals an initial denial is typically seen 2-3 times in total by State Agency Consultants—once by a SAMC for a Medical Evaluation (ME) at the initial level—when often much evidence has not arrived or when the claimant is still undergoing medical diagnostics, and again at the reconsideration level, plus maybe once by a SAPC for a Psychological Evaluation (PE).

Now, the process may have changed when the system moved to electronic records, but back in the 2000 era with paper files there was at times an issue with document destruction—medical records known to have been sent to and received by the Texas DDS—such as brain scans—would be found missing from the claim file when it was later transferred to the SSA OHA on ALJ Appeal. In such cases, the State Agency MEs by SAMCs and PEs by SAPCs may have been compromised by prior evidence destruction at the Texas DDS during development.[6] This might for instance have been to effect the historical non-statutory practice at the Texas DDS of placing the "objective" test on the evidence itself[7] instead of the

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5 For context, one might consider Goodnight v. Apfel: "The Goodnight class action was principally oriented toward alleged deficiencies in Utah Disability Determination Services (DDS) actions and procedures. … Plaintiffs then proceeded with discovery and identified two Utah DDS medical advisers who were signing decisional documents prepared by disability examiners without having reviewed the claim files between 1991 and 1993." http://www.ssa.gov/OP_Home/hallex/I-05/I-5-4-61.html

6 The Houston Chronicle stated in 2001 that "Many people in the appeals process complain that the Social Security agency loses records … ," quoting the transcript of a disability hearing of a Pro Se claimant with fibromyalgia. "Disability hearings can leave applicants baffled, frustrated / Lost medical records among the problems." Alan Bernstein, Houston Chronicle, 03-11-01 A.20 Note that if key medical evidence is missing from the case file, then the MEs and PEs are compromised, which Pro Se claimant can hardly remedy on appeal.

7 The Texas DDS under Albert F. Vickers, M.D., Chief SAMC during at least 1974-1989, who may have been Acting or Emeritus Chief SAMC through 1997, and who worked as a SAMC till 2003, selected and directed Consulting Examiners to report "**only on objective evidence**" [SIC, underlines were bold]. TRC Psychiatric, Neurological, Musculoskeletal, & Internal Medicine "Examination Guidelines for Consultative Examiner Physicians," February 1979; Albert F. Vickers, M.D., Chief Medical Consultant et al. Texas State Library and Archives Commission (TSLAC) Archives. Chief SAMC Albert F. Vickers, M.D. gave a presentation to the

claimant, e.g. throwing away results for tests not considered by the Texas DDS to have a clear "objective" interpretation; to effect one of the laundry list of biases at the Texas DDS, e.g. against conditions that are purportedly psychoneurotic[8] using terms such as non-"objective," "somatoform,"[9] "iatrogenic,"[10] or of re-classifying "somatoform with some physical findings" as "depression";[11] or they might have simply culled records that they did not know how to interpret. Significantly, the DDS and SSA emphasis on decision "accuracy" rates provides a perverse incentive to cull evidence contrary to the chosen decision in order to preclude reversal on appeal and improve personal, unit, and agency statistics.[12] [13]

TRC Board at a day-long "working session on DDD" on May 15, 1986, where he promulgated the Texas DDS' non-statutory definition of disability in Transparency #1 as:

"medically determinable objective physical and/or mental findings of impairment",

whereas the statutory language in 42 U.S.C. 416(i), 423(d), and 1382c(a)(3) is:

"medically determinable physical or mental impairment"

Dr. Vickers' definition adds two words--"objective" and "findings"--to the statutory one, which adds a test that applies to the medical evidence, whereas in the statutory definition the "objective" test is implicit in that it applies to the existence of the claimant's medical condition itself, namely that of a "Medically Determinable Impairment" as interpreted on the evidence as a whole. Albert F. Vickers, M.D. spoke again to TRC Board at its "Work Session: Disability Determination Services Program" on November 16, 1989 about the Texas DDS Medical Consultant Services, according to his notes in Attachment #8 of the meeting minutes. Dr. Vickers stated: **"You have already seen the detailed definition of disability for the program and heard from operations staff regarding the sequential analysis of a case. Such a sequence must be medically supportable by objective physical or mental data. A claimant incurs a measurable impairment. It then varies from program to program whether this impairment equates to a 'disability'."** In fact, the first step in the disability process is not that "A claimant incurs a measurable impairment." Measurability is not requirement for disability under the Social Security Act, although "medical evidence" must be shown in order demonstrate the objective existence of an underlying Medically Determinable Impairment (MDI). Nor need a disability be "medically supportable by objective physical or mental data," once the existence of an underlying MDI has been shown. In particular, "objective" is not a required screening test for evidence considered in the determination of disability under the Social Security Act, and it is certainly not the basis to destroy evidence (e.g. brain scans) whose interpretation is seen by the Texas DDS as unclear. Quotes from TSLAC Archives.

8 e.g. a bias against occupational injuries in the oil industry, such as back "pain" and solvent neurotoxicity "cognitive effects". "Asked why the Texas Rehabilitation Commission has the lowest initial approval rate in the nation, agency spokesman Glenn Neal Promised the Chronicle a full answer. A few days later, he said the Social Security Administration had asked to speak on the issue for the commission. **Wesley Davis, a spokesman in the Dallas regional office, essentially said the rate stems from misunderstandings by blue-collar workers. He said the reason starts with an abundance in Texas of under-educated manual laborers in the oil industry and elsewhere. They commonly get injured on the job but don't understand that their condition is not total disability, which is required for Social Security aid, he said."** From: Social Insecurity: Local Judges Prove Stingy in Deciding Appeals Cases, Alan Bernstein, Houston Chronicle, 3-11-01 A.1.

9 Conditions that might have been considered to be non-"objective" or psychoneurotic e.g. "somatoform disorder" in the past might include Chronic Fatigue Syndrome (SSR 14-1p), Fibromyalgia (SSR 12-2p), Interstitial Cystitis (SSR 15-1p), and Post-Polio Syndrome (SSR 03-1p).

10 Some ALJ's at Texas OHAs have written decisions which allege the claimant's illness is "iatrogenic"--caused by the doctor, because they supposedly had "somatoform disorder" and the doctor told them they were sick.

11 Fabrication of allegations of depression against claimants whose condition the Texas DDS considers non-"objective" was policy at the Texas DDS. "Disability Determination Services Program/Policy Memorandum No. 95-13" dated April 28, 1995 to All POMS Holders and SAMCs titled "Notes from Mental ROMC Visit" states: "**Cases of severe somataform [SIC] disorders with some physical findings may be best evaluated under Listing 12.04 since these individuals are often depressed and have been diagnosed with depression. If an impairment would be an allowance under listing 12.07 (somatoform disorders), except that there are physical findings, then it should be an allowance under a different listing.**"

12 **"Quality … must be maintained at 92.00 percent."** Texas DARS DDS SAMC/SAPC contract 2003-5.

13 According to TRC Board meeting minutes, SSA Region VI Commissioner Horace Dickerson told the Board on September 20, 2001 that **"Texas DDS is ranked thirteenth accuracy of adjudications … nationwide."** TSLAC archives, Austin TX. In fact, in 2000 Texas DDS had the lowest "initial approval rate" in the nation" &

The compromise of Texas State Agency ME and PE evaluations--which are summaries of the claimant's medical condition that document the evidentiary basis for the decision, by cursory consideration if not outright document destruction, not only compromises the determination of disability by the State Agency, it also compromises subsequent determinations by SSA ALJs at the OHAs. A SSA ALJ is generally not a medical expert;[14] they rely on these State Agency ME's and PE's for evidence to support their decisions.

These 5-10 minute non-examining case file evaluations done by State Agency consultants at the Texas DDS are worthy of, and merit, no legal weight in comparison to treating source medical opinions where personal physicians have worked with claimants for years. But the Texas DDS and SSA Region VA, perhaps in the service of regional actuarial[15] or state political goals,[16] often fail to comply with many of the 1996 SSA "Process Unification" rulings like SSR 96-2p, "The Treating Physician's Rule," and those cursory Texas DDS ME and PE evaluations are stand as the presumptive "decision of the Commissioner," and under SSR 96-8p must be "treated as expert opinion evidence of non-examining sources" on appeal.

In short, the Texas DDS has for decades processed somewhere around 220-330,000 claims per year—said to be about 8% of the SSA workload, for what was in the 2000 era somewhere in the neighborhood of $275-350 per claim, and has since 1998 used a piece rate SAMC/SAPC compensation scheme. The DARS web site list the Texas DDS SAMCs & SAPCs with contracts over $100,000 and Texas HUB Report lists their payments. The most prolific of these contractors have earned millions of dollars over the years, some apparently processing around 20-25,000 claims a year, about a hundred a day, apparently spending an average of 5-10 minutes per claim determined. On the order of 4-5 million claimants have had their claims subjected to this piece rate State Agency Consultant compensation scheme since 1998, their futures often determined by consultants who may spend on average only 5-10 minutes per claim decision, their claim files having been prepared by a DE with no medical background and only 6 weeks of training, their subsequent OHA ALJ appeals potentially compromised by flawed ME & PE evaluations.

The U.S. Public would, in the wake of the 2008 housing & financial crisis, recognize the situation at the Texas DDS since 1998 as a centralized industrial-scale robo-signing paperwork mill, in the manner in which some U.S. banks used so-called "Vice Presidents" to sign paperwork for hundreds of foreclosures per day for submission to courts in asset-separation schemes they effected "under color of law."

III. Beginning of the Piece Rate Compensation System for Consultants at the Texas DDS:

Texas Rehabilitation Commission (TRC), formed September 1, 1969, was the predecessor parent agency of the Texas DDS before it was "dissolved" on March 1, 2004[17] with the creation of Texas Department of Assistive and Rehabilitative Services (DARS) as the new parent agency. TRC had a lot of problems running the Texas DDS, most publicly during the 2000-4 era, an era when the agency was under-funded by SSA during 1998-2001[18] and developed a backlog of up to 75,000 claims,[19] had, according to news

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a widespread failure to do Vocational Evaluations (VE's); the "initial approval rate" increased about 25% from the 3 years before to the 4 years after 2000 when this was publicized in the media. SSA "accuracy" statistics have an internal bias from the self-fulfilling effect of a state DDS agency denial on subsequent SSA ALJ appeal.

14 For citations that an ALJ is not a medical expert, see note 19 in Windus v. Barnhart (USDC EDWI 2004); 345 F. Supp. 2d 928; 2004 U.S. Dist. LEXIS 23827.

15 We have no data on the actuarial forces that determine SSA disability policy nationally or regionally, e.g. any SSA influence producing the low approval rate at the Texas DDS 1994-2000, the lowest in the nation in 2000. A factor could be reduced tax revenue due to low wages & income earned by minorities & immigrants.

16 See reference to SSA Region VI spokesman quote blaming laborers "in the "oil industry and elsewhere" for Texas having the lowest "initial approval rate" in the nation in 2000 (29%), above.

17 TPIA Rq DARS Resp July 2004. See by HB2292, 78th Leg., 2003.

18 TRC Board meeting minutes of September 20, 2001: Social Security Administration Region VI Commissioner Horace Dickerson gave "an update on SSA's review of TRC." **"Commissioner Dickerson stated that over the last two and a half years, SSA has not been able to provide all the funding needed by DDSs to process all of the claims that they have received. He acknowledged that this has resulted in backlogs this fiscal year across the nation, as well as in Texas."** TSLAC archives, Austin, TX.

reports, the lowest "initial approval rate" in the nation in 2000—a 29% approval rate compared to about 45% nationally,[20] had an overall combined DDS/SSA psychiatric disability approval rate of about 2/3 of the national average in 1999,[21] was the subject of about 45 newspaper articles, mostly written by reporter Alan Bernstein, in the Houston Chronicle in 2001-3, processed 12,000 claims on the second tier "waiting list" in the overtime processing "fake examiner" code name scandal,[22] had a widespread failure to properly do Vocational Evaluations (VEs) and to consider vocational factors,[23] reimbursed selected hospitals for Consultative Examinations (CEs) by physicians on claimants in excess of SSA rates,[24] had an ALJ sue for failure to do CEs on indigents (e.g. mental cases) on remand to the Texas DDS needed to obtain evidence to support a claim approval without reversal,[25] saw the picketing of the home of an ALJ in Houston,[26] saw the use of ruse interview tactics by a "fraud" unit against some Houston claimants,[27] and was required to file reports with the Texas Legislative Budget Board on a quarterly basis during 2001-3 under "Rider 7", events on which several others have previously commented.[28, 29] After its creation, Texas DARS operated without a Board or public Board meetings for several years.

Historical context on the employment of State Agency Consultants at the Texas DDS is found in a presentation of Chief SAMC Albert F. Vickers, M.D. to the TRC Board on November 16, 1989:

"For many years we could not find enough available consultants, more recently we have a waiting list in some fields. Earlier we contracted only with physicians who were locally active in private office practice and in organized and specialty medical organizations. As our needs expanded this limitation became impractical. … Later we also became dependent on new hire retirees to get adequate numbers and needed specialty distribution as well."

TRC began compensating State Agency Consultants as independent contractors on a piece rate basis on October 1, 1997.[30] The TRC Medical Consultation Advisory Committee (MCAC)[31] then set medical policy at TRC. The minutes of the September 16, 1998 of the TRC MCAC meeting records the presentation of TRC Deputy Commissioner for DDS Dave Ward reviewing the change to a piece rate

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19 Houston Chronicle, 5-3-01 A.1.

20 TPIA Rq DARS Resp October 2004: Texas DDS initial approval rates were: **FY 1998: 29.7%; FY 1999: 29.8%; FY 2000: 29.0%; FY 2001: 37.3%; FY 2002: 39.7%; FY 2003: 38.5%; FY 2004: 36.7%.**

21 A letter to the editor by Leslie Gerber, director of public policy, Mental Health Association, Houston stated of Social Security disability recipients in Texas that **"in 1999, only 22.8 percent had a psychiatric disability, compared to the national average of 32.1 percent, which is nearly one and a half times higher."** Houston Chronicle, 3-18-01 C.3.

22 Houston Chronicle, 9-9-01 A.1, A.20.

23 Houston Chronicle, 10-18-01 A.29.

24 SSA OIG: "The Administrative Costs Claimed by the Texas Disability Determination Services." Audit Report A-15-02-12051, March 2004.

25 Cause no. 03:01CV816, Williams v. Massanari, et al. U.S. District Court, Dallas Texas, filed 04-30 2001.

26 Houston Chronicle 7-25-2002 A.19.

27 Houston Chronicle 3-2-2003 A.1.

28 Lawrence A. Plumlee, M.D.: Lack of Due Process and Equal Protection of the Laws in the Determination of Social Security Disability in Texas: The Urgent Need for Reform: U.S. House of Representatives, Committee on Ways & Means, Subcommittee on Social Security, "Hearing on the Social Security Administration's Management of the Office of Hearings and Appeals," September 25, 2003, Serial No. 108-40, pages 149-156 https://hulk.resource.org/gpo.gov/hearings/108h/99662.txt (Includes citations of 45 news articles in the Houston Chronicle 2001-3 on problems with the determination of Social Security disability in Texas.)

29 Statement of Laurie L. York, Austin, Texas: U.S. House of Representatives, Committee on Ways & Means, Subcommittee on Social Security, "Commissioner of Social Security's Proposal to Improve the Disability Process," September 30, 2003, Serial No. 108-64. https://hulk.resource.org/gpo.gov/hearings/108h/99682.txt

30 TPIA Rq DARS Resp October 2004.

31 TPIA Rq DARS Resp July 2004: The MCAC "was disbanded with the repeal of 40 TAC Sec 116.4 on March 31, 2002. The board has been replaced by professional service contracts with a panel of specialists who provide consultation and advice to the Medical Director and executive management." See 27 TxReg 2539 3/29/2002.

SAMC/SAPC compensation system at the Texas DDS:

"TRC/DDS looked into a new pay system for State Agency Medical Consultants (SAMCs) as a response to a state audit. But what DDS did is make it much in line with a consultant process or a services process. It changed to a fee per case system as opposed to an hourly system, allowing more flexibility with the per fee case scenario. This has also increased the DDS production capacity. Doctors are more willing to communicate over the phone with the DE and actually conduct medical evaluations/reports over the phone, which speeds up the process. There are currently 55 medical consultants that work with DDS, and the requirement is that a DE and a SAMC sign off every disability decision."[32]

The minutes of the September 18, 1999 meeting of the TRC MCAC records the presentation of Elizabeth Gregowicz on SAMC compensation:

"Commissioner Arrell raised the question about our payment of State Agency Medical Consultants (SAMC), indicating that TRC-DDS recently made a change in how we do that. Ms. Gregowicz noted that our budget from SSA has been shrinking in the last 10 or so years, and consequently, DDS' have been looking for ways to enhance operational efficiencies. Texas implemented a "pay-per-case" concept versus "pay-per-hour" for SAMC services. It appears that productivity has increased and there is increased efficiency. Dr. Vickers said he initially thought quality would suffer, but notes this has not happened. The Disability Examiners are more thorough and quality has improved. The SAMCs are contract workers and pay their own social security and income tax. There are no "employee" benefits since the SAMCs are not employees."[33]

The Texas DDS piece rate State Agency Consultant compensation scheme was thus set by an agency beset by under-funding, backlogs, and low approval rates, that was "dissolved" on March 1, 2004.

IV. SSA Region VI & Texas DDS on 'PUTT,' Pain & Cognitive: Non-Severe/Non-Combination:

The video of the April 22, 2004 Texas DDS half hour "Brown Bag Session" lecture[34] by Texas DDS SAMC neurologist Scott Spoor, M.D. on "PUTT"[35] to DDS claims examiners, taken at face value, promulgated an "oral" policy from SSA headquarters in Baltimore through the SSA Region VI ROMC (Regional Office Medical Consultant) in Dallas to the Texas DDS in Austin on determining claims for physical conditions involving "pain" or "cognitive complaints." Dr. Spoor stated in the beginning:

"There is some new news from Baltimore. I wish I had something in print to hand you, but it's not in print. It's oral history. It's information passed orally from Headquarters down to Dallas, down to us. Nothing is yet in print. We're going back up to Dallas next month some time to get more news, orally, that we can pass it on to you, orally. [Many attendees laughing, as if to an inside joke.] That's the way it goes some times." Dr. Spoor then gave a legal disclaimer that he is a M.D. and not a policy expert.

Dr. Spoor's "Brown Bag" session was apparently intended to direct Texas DDS claims examiners on how to handle claims of claimants with physical medical conditions but also "pain" or "cognitive complaints" from having those symptoms lost from reporting under the Texas DDS system. SSR 96-3p was not referenced.[36] The direction was to NOT refer the claim for a psychiatric PE by a SAPC, but rather to capture these complaints on the Residual Functional Capacity (RFC) form at Step five, late in the physical disability

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32 TRC Medical Consultation Advisory Committee (MCAC) meeting September 16, 1998 p4. TPIA Rq DARS.

33 TRC Medical Consultation Advisory Committee (MCAC) meeting September 18, 1999 p4. TPIA Rq DARS.

34 Texas DDS Videotape R-008: 'PUTT – Pain – Spoor': Brown Bag Session April 22, 2004 by Scott Spoor, M.D. TSLAC Archives, Austin, TX.

35 PUTT revers to "Process Unification Task Teams", a mid-1990s SSA redesign program which led to the publication of the "Process Unification" Social Security Rulings of 1996 intended to harmonize the disability program vertically and horizontally. See http://www.ssa.gov/OP_Home/rulings/di/01/SSR-DI01toc.html

36 SSR 96-3p: Policy Interpretation Ruling: Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe.

determination process. These claims would never be reviewed by a psychiatrist, there would be one less evaluation, one less piece rate fee, the claim could not be approved as a mental condition (e.g. "somatoform disorder") at the Texas DDS, and there would be no PE form to assist an OHA ALJ on appeal.[37] This added documentation on the RFC form would help keep such claims approved at the Texas DDS from being rejected during pre-effectuation review at the SSA Region VI headquarters or above, protecting the Texas DDS's "accuracy" rating while approving such claims.[38] Dr. Spoor continued:

Well, here's the new news. Again, it's not in print anywhere, I can't point to anything in POMS or anywhere. We've been instructed from Baltimore through the head ROMC at Dallas to capture these complaints. We've been told that if it's primarily a physical case, capture these cognitive complaints on the RFC. We've been not told how to do that [many attendees laughing], we've been just told to do that [few attendees laughing]. So, somehow capture these cognitive complaints on the RFC. I would encourage you to use the word cognitive instead of mental so you'll stay out of the quagmire of "is it an MDI or not?". Just use the word "cognitive". And I use that word in a broad sense.

"MDI" refers to Medically Determinable Impairment, the statutory requirement for a claim to be approved. Avoiding "the quagmire of 'is it an MDI or not'" means avoiding considering those symptoms when considering the claim for approval as a physical or mental condition. The RFC (Residual Functional Capacity form) is an evaluation done at step five, late in the determination process. Dr. Spoor is instructing his SAMCs how to shepherd claims involving pain (e.g. oil roughneck back injuries), cognitive complaints (e.g. oilfield chemical/solvent/fume injuries) and MDI-"related symptoms" through the system—putting them on the RFC form at Step five late in the medical disability evaluation process and NOT on a Psychiatric Evaluation form, so that a finding of mental disorder, which could result in an approval, could not be made. After discussing the example of a "failed" back pain claimant on opiates, he continued:

"Now, using your imagination, expand this same concept to other conditions. Crohn's disease, for example. It's very hard to meet the listings for crohn's. But kind of a chronic, smoldering crohn's patient may be chronically ill. Near the table for weight loss, for example, mildly anemic, perhaps. Chronically ill, tired, weak and fatigued. They too may be tired and weak and not able to sit and attend chronically. This might be the kind of RFC that might work for them. Fibromyalgia, the same kind of thing. This might be the RFC that might work for that person. The kidney patient, you all know on the kidney listings, the person, eh, hemodialysis, is almost, you can go along, go along, don't meet the listings, don't meet the listings, on until you go on hemodialysis, then boom, you meet the listings. Well, they can feel pretty bad up until they meet the listing, they're chronically ill, but they don't .. quite .. fit .. the listing criteria till they just go on hemodialysis. This might be a way to do that. You know, they're chronically tired, they're weak, they're anemic, but they're getting treatment for the anemia, so their crit is not yet to listing .. level yet. Well, call them up, ask them about their ADL's, ask them about what they do, how they feel over the course of the day and the work week. And et cetera."

What this policy fails to do is to consider pain, cognitive complaints, & MDI related symptoms at step 2 of the process, when considering if the condition is "severe".[39] It is a de-facto "non-severe"/"non-combination" policy. As it appears that documentation requirements to justify a decision drove the disability determination process at the Texas DDS at this time (e.g. decision-justifying claim development), there is a problem directing DEs to consider combined physical and mental factors on the RFC, because the RFC form is not prepared until step five of the process, and only a prior finding of severity at step two of the process, so pain and cognitive complaints would not be evaluated at step two.

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37 Several years prior, (e.g. in 1999), the overall approval rate for psychiatric claims in Texas was about two-thirds of the national average.

38 Texas DDS DEs and consultants face a disincentive to approving claims for controversial medical conditions, because the Regional Office may kick them back in pre-effection reviews, impacting their "accuracy rate."

39 This is covered by the current POMS DI 24515.061 How We Evaluate Symptoms, Including Pain, which is not limited to "severe" cases or the only the RFC. https://secure.ssa.gov/poms.nsf/lnx/0424515061

This video was made less than two months after the creation of DARS, following the "dissolution" of TRC after a laundry-list of scandals, an agency that had long selected and directed Consultative Examiners to produce only objective evidence, used a non-statutory definition of disability which placed an "objective" test on each piece of evidence, and in the wake of the 1990-1 Persian Gulf War had driven the "initial approval rate" during 1994-2000 down so low that by 2000 it was reported to have the "lowest initial approval rate in the nation," whereupon the SSA Region VI Spokesman blamed that low rate on laborers "in the oil industry in elsewhere."

One may compare this policy at the Texas DDS to SSA's "non-severe"/"non-combination" policy effected at the New York State DDS during the 1980's, as described in Dixon v. Shalala (2nd Cir., 1995)[40], a policy which was effected in nonacquiescence with the Second Circuit Court of Appeals. Dixon states:

"This appeal involves litigation initiated more than a decade ago on behalf of more than 200,000 claimants whose applications for benefits were denied on the basis of what the trial court found to be systematic and covert misapplication of the disability regulations. ..." (1020/2)

"Plaintiff's, who were denied disability benefits on the grounds that their impairments were found to be "not severe", brought this class action in 1984 to challenge what they alleged was a policy by the Secretary to heighten the threshold standards for benefits. In the 1992 Opinion, the district court found that the Secretary and Social Security [*1021] Administration ("SSA") adjudicators, between June 1976 and July 1983, engaged in systematic and clandestine misapplication of disability regulations [3] concerning "severe" impairments and illegally implemented a policy involving "noncombination" of impairments, causing plaintiffs' disabilities to be classified as "non-severe" and their applications to be denied without full review. Because the court found the agency's misapplication of the regulations to be covert as well as illegal, it concluded that disability claimants could not reasonably have been expected to know the practice. Consequently, the court equitably tolled the statute of limitations governing appeals of disability denials, allowing claimants to appeal their denials..." (1020-1/2-3)**

"We are painfully aware that no judicial pronouncement may at this late date make whole the hundreds of thousands of disabled individuals who comprise the plaintiff class, and that the choices before us are among perhaps equally unhappy alternatives. After full consideration of the Secretary's contentions, however, we remain unconvinced that the trial court abused its equitable discretion or committed reversible error. Accordingly, we affirm the judgment of the district court in its entirety. ..." (1021/5)

"2. Misapplication of the Severity Regulation Prior to April 1981" (1026/23)

"Statistical evidence concerning annual Step Two denial rates, showing that denials at this step climbed precipitously in the late 1970s. Step Two denials climbed from 8.4 percent rate of total OASDI denials in 1975, to 24.8 percent in 1977, to 41.6 percent in 1979, and remained at this elevated level into the early 1980s, when the POMS and SSR were issued. ..." (1027/25)

"3. The Noncombination Policy

The court next examined the Secretary's policy, implemented between December 1978 and December 1, 1984, of prohibiting adjudicators from considering the combined impact of non-severe impairments on a claimant's ability to perform work-related functions. The policy was incorporated in the 1978 DISM and later in the SSR, and was abandoned in 1985, pursuant to SSR 85-28. Relying on settled precedent in this and other circuits, the court concluded that the policy violated the Act and resulted in the denial of potentially meritorious claims. Id. At 956-57." (1027/26)

"In conclusion, ... The claimants here were denied the fair and neutral procedure required by the statute and regulations, and they are now entitled to pursue that procedure." (1038/68-9)

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40 54 F.3d 1019; 1995 U.S. App. LEXIS 9025.

By blaming the SSA Region VI ROMC for this non-statutory "oral" policy "from Baltimore", Dr. Scott Spoor, a contractor, serves to insulate himself against a state-law 1983 action for civil rights violations. Dr. Scott Spoor became Texas DDS Chief SAMC on October 1, 2004, and is still listed as a DARS contractor.

V. Claimant Harm at the Texas DDS:

I want to point out that, for SSDI claimants, an unjust disability denial may well destitute them and their family financially, eventually forcing them onto SSI. The Social Security Act requires in most circumstances that SSDI claimants have worked 20 out of the past 40 quarters to apply, and it takes about 5 years for a claimant to work through the disability system twice. A claimant who is truly disabled and cannot work again can thus never reapply for SSDI again because, unless they work for 5 years continuously, as they will fail the quarter test, and can apply only for SSI when they have no more assets. It may also severely impact their rights to old age and child benefits. It can be destitutional.

When the State Agency Consultant piece rate compensation scheme went into effect at the Texas DDS in FY 1998, the "initial approval rate" during FY 1998 through FY 2000 was in the 29's, while after it became a political issue when Texas was reported in the media to have the lowest "initial approval rate" in the nation in 2001, it rose into the 37's, 39's, 38's, and in 2004 the 36's, an increase of about 25%.[41]

In fact, the "allowance rate" at the Texas DDS—which is a slightly different thing--dropped far earlier than that. The public policy paper of N. Brook Campbell[42] of Texas State University-San Marcos has a graph on page 91 shows that the "allowance rate" was around 30% in 1990, went up to around 37% in 1991-2, then started dropping in 1993 till it hit around 26-7% in 1995-7 when it rose to 30-31% in 1998-2000. After the publicity in 2000, it went up to the 38-40 range 2001-2006, and up to 43-44% range 2007-9. The fact that the approval rates at the Texas DDS started dropping in 1993 and were lower during 1994-2000 than either before or after supports my thesis, argued in my prior 2003-4 testimony[43] [44] to the Subcommittee on Social Security, that the Texas DDS, given a non-statutory "objective" test on evidence and their biases against conditions that are supposedly non-"objective," purportedly "somatoform", "pain" e.g. back injury, and "cognitive" e.g. chemical injury, may have during that period systematically discriminated against claims for occupational injuries from the 1990-1 Persian Gulf War, against military veterans, defense contractors supporting the war, and Kuwait oil well firefighters e.g. from Houston.

These circumstances render the determination of disability in Texas to be an adversarial process in violation of the Social Security Act. They particularly prejudice the due process and equal protection rights of Pro Se claimants, who, without representation, may not be able to remedy such deprivation of rights, e.g. being framed by bad ME & PE evaluations submitted to SSA ALJs on appeal. The piece rate compensation scheme at the Texas DDS may also result in unequal treatment between claimants whose

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41 Per DARS, see above.

42 Campbell, Brook N.: "Texas Disability Determination Services: A Study of Unemployment Rates, Disability Application Rates, Allowance Rates, and Fraud Referrals Over Time" (2010). Applied Research Projects-Texas State University-San Marcos. Paper 344. http://ecommons.txstate.edu/arp/344

43 Stephen A. McFadden, M.S.: How the Operation of Texas Rehabilitation Commission (TRC) Disability Determination Services (DDS) Prejudices the Determination of Social Security Disability in Texas, Including Decisions by the Texas SSA Office of Hearings and Appeals (OHA). U.S. House of Representatives, Committee on Ways & Means, Subcommittee on Social Security, "Hearing on the Social Security Administration's Management of the Office of Hearings and Appeals," September 25, 2003, Serial No. 108-40, pages 125-131 https://bulk.resource.org/gpo.gov/hearings/108h/99662.txt

44 Stephen A. McFadden, M.S.: Social Security's Future: The Need for Reform of Problems with Constitutional and Civil Rights to Due Process and Equal Protection of the Laws in the Determination of Social Security Disability in Texas 1996-2003: U.S. House of Representatives, Committee on Ways & Means, Subcommittee on Social Security, "Social Security's Future," January 26, 2004, Serial No. 108-45, https://bulk.resource.org/gpo.gov/hearings/108h/99667.txt

claims are evaluated by "high volume" as compared to "low volume" consultants[45] and claimants whose claims are evaluated by "high volume" consultants in Texas as compared to those in other states.

The U.S. Constitution speaks directly on a person's rights to due process with respect to the actions of the U.S. Government: **"No person shall be held ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."**[46]

The U.S. Constitution speaks directly on person's rights to due process and equal protection of the laws with respect to the actions of state governments: **"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction equal protection of the laws."**[47]

Class action disability suits against Social Security[48] are difficult to plead and litigate under the strict limits of 42 U.S.C. 405(g), which precludes Federal Court discovery.[49] SSA holds that their civil rights procedures apply only to SSA employees, and that DARS employees (e.g. DEs and non-consultant administrators) are employees of the State of Texas for the purposes of civil rights actions.[50] State Agency Contractors (e.g. SAMCs & SAPCs) were (in 2003-5) per Texas DDS contract "not an employee of DDS for any purpose," and agree to "Indemnify and hold harmless … from all liability … damages … resulting … from the performance … of the Contractor."[51] The SSA POMS speaks on the potential state court liability of State Agency Contractors.[52]

VI. Conclusion:

In my opinion, the piece rate State Agency Consultant compensation scheme at the Texas DDS is the single biggest ongoing violation of the average Texas Social Security Disability claimant's rights to due process and equal protection of the laws. It was created by policy decisions made during a period of under-funding and undue stringency at the Texas DDS by a parent agency that was "dissolved" after a laundry-list of scandals, and renders the Texas DDS a centralized industrial-scale robo-signing paperwork mill where some high volume consultants have made millions doing cursory 5-10 minute evaluations of claims, sometimes 20-25,000 per year, evaluations which often stand as the "decision of the Commissioner" and may prejudice the rights of Pro Se claimants on appeal to SSA OHA ALJs--where those cursory evaluations must be "treated as expert opinion evidence of non-examining sources."[53]

My other concerns would be residual issues with the application of the historic non-statutory "objective" test on evidence effected at TRC—the former parent agency of the Texas DDS until 2004; the effects of decision-justifying and "accuracy"-protecting claim "development" and document destruction to support those policies—in my opinion, ALL claimant medical records should be preserved in the electronic case file for reference; and the de-facto "non-severe" / "non-combination" policy on "pain," "cognitive

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45 The 2003-5 Texas DDS SAMC/SAPC contract required contract consultants to adhere to a fixed schedule between 15 and 40 hours per week. Thus, to calculate production rate for other than full-time consultants, one would need to know how many hours they contracted to work per week.

46 Fifth Amendment to the Constitution of the United States.

47 Fourteenth Amendment to the Constitution of the United States, Section 1, sentence 2.

48 See Stieberger, Grant, and Goodnight at: http://www.ssa.gov/OP_Home/hallex/I-05/I-5-4.html

49 For example class actions, see the cases cited in the Stieberger non-acquiescence case. http://www.empirejustice.org/issue-areas/disability-benefits/litigation-legal-updates/class-actions/ http://www.empirejustice.org/issue-areas/disability-benefits/litigation-legal-updates/stieberger-manual.html

50 Texas generally has Sovereign Immunity from liability in its own courts unless the Legislature consents.

51 They are also required to be "licensed ... in the State of Texas."

52 https://secure.ssa.gov/poms.nsf/lnx/0439518055 https://secure.ssa.gov/poms.nsf/lnx/1502105053

53 SSR 96-6p: Policy Interpretation Ruling: Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence.

complaints" & "related symptoms" promulgated by directing them to be put on the RFC at step five rather than giving them proper consideration at step two of the disability determination process.

I thank you for this opportunity to comment.

Western Center on Law & Poverty, Letter

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June 17, 2015

Honorable Paul Ryan
Chair, U.S. Committee on Ways and Means
United States House of Representatives
1102 Longworth Hob,
Washington, D.C., 20515

Re: H.R. 2511, The "SAIL Act" (Rep. Tom Reed (R-NY)) – Oppose

Dear Chairman Ryan,

The Western Center on Law and Poverty represents California's poorest residents in policy and budget discussions affecting housing, health and public benefits. We are writing in opposition to the H.R. 2511 the "SAIL Act" (School Attendance Improves Lives Act),[1] which would establish new school attendance requirements for disabled children (ages 16 and 17) who receive SSI and sanction them if they fail to meet the definition of a full-time student.[2] We are in opposition because, this well-intentioned legislation seeking to reinforce the value of educating all of our children fails to address some of the real and systemic barriers to regular, full-time attendance for disabled and very ill children and would have the potential of pushing impoverished families with disabled children even deeper into poverty.

We understand that school non-attendance is a significant problem and one that disproportionately impacts poor children[3] and children with disabilities. We also understand that participation in school is one of the only ways that a low-income child has to exit poverty. However research has shown that school non-attendance penalties are applied unevenly and do not work to reduce attendance problems. No one benefits from increasing economic hardship in a home where the parent's income or wages are already insufficient to meet the basic needs of their children, especially when those children are disabled.

H.R. 2511 Would Make Some of America's Most Vulnerable Children Poorer

According to data concerning the SSI Recipients by State and County in 2013, provided by the US Social Security Administration's Office of Retirement and Disability Policy, the number of Blind and Disabled individuals Under 18 receiving SSI benefits in California as of December 2013 totaled

[1] The full text of the H.R. 2511 can be found at: https://www.congress.gov/bill/114th-congress/house-bill/2511/text

[2] A full-time elementary or secondary school student defined by section 202(d)(7) means: "an individual who is in full-time attendance as a student at an elementary or secondary school, as determined by the Commissioner of Social Security (in accordance with regulations prescribed by the Commissioner)." "An individual shall be deemed to be a full-time elementary or secondary school student during any period of nonattendance at an elementary or secondary school at which he has been in full-time attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Commissioner of Social Security that he intends to continue to be in full-time attendance at an elementary or secondary school immediately following such period."

[3] http://www.ojjdp.gov/dso/Truancy%20Literature%20Review.pdf

119,647. 38,529 of these recipients lived in Los Angeles County, 10,008 lived in San Bernardino County, 7,496 lived in Riverside County, 6,435 lived in San Diego County, 6,289 in Orange County, and 6,083 lived in Sacramento County.[4]

According to the United States Social Security Administration, "Children can get SSI if they meet Social Security's definition of disability for children," which means that the child must have a physical or mental condition(s) that very seriously limits his or her activities; and The condition(s) must have lasted, or be expected to last, at least 1 year or result in death. Additionally, their family must have little or no income and resources.[5] According to the World Institute on Disability's Disability Benefits 101, "Not everybody with a disability automatically gets benefits. You must also have no other way to pay for basic expenses like food, rent, and transportation. If you are under 18, SSI decides whether you need help by looking at the money you and your parents earn and the assets you and your parents have, including savings accounts, stocks, and real estate."[6]

The Lurie Institute for Disability found that of low-income families receiving the children's SSI benefits, 45 percent could not pay for all of their essential expenses, 21 percent could not pay rent, 42 percent could not pay their utility bills, and 24 percent could not access needed medical care. If a low-income family receiving SSI for a child who is disabled is struggling with their child's school absenteeism, we believe the appropriate intervention is to provide support, not to make them poorer and more vulnerable to homelessness and hardship.[7]

H.R. 2511 Blames Children & Overlooks Systemic Causes of Poor School Attendance

A July 2014 report on Student Absenteeism from Child Trends Data Bank found, "Students classified as having a disability are more likely than students without a disability to have missed three or more school days within the past month. In 2013, 27 percent of eighth-graders with a disability reported missing three or more school days within the past month, compared with 18 percent of students without a disability."[8] Disabled students who are receiving SSI face numerous additional barriers to attending and succeeding in school beyond those faced by students who are not disabled and/or who are not living in low-income families. Among these many barriers (which, it must be noted, are unique to every student) include: inadequate access to transportation, learning difficulties due to disability, inadequate access to school supplies and other resources for academic success, communication complications, etc.

Children recipients of SSI are also poor. According to a paper written by three professors at Brandeis University, "Households raising children with disabilities experience higher rates of income poverty compared to their non-disabled peers."[9] A 2013 report published by the Office of Attorney General

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[4] http://www.ssa.gov/policy/docs/statcomps/ssi_sc/2013/ca.html
[5] http://www.ssa.gov/disability/Documents/Factsheet-CHLD.pdf
[6] http://ca.db101.org/ca/situations/youthanddisability/benefitsforyoungpeople/program2c.htm
[7] Parish, S.L., Ghosh, S., & Igdalsky, L. (2013). *Hardship among Low-income US Families that receive Children's Supplemental Security Income (SSI)*. Brandeis University: The Heller School for Social Policy and Management. Retrieved from: http://lurie.brandeis.edu/pdfs/SSI%20hardship%20pol%20brief%20final.pdf
[8] *Student Absenteeism*: http://www.childtrends.org/?indicators=student-absenteeism
[9] Parish, S.L., Ghosh, S., & Igdalsky, L. (2013). *Hardship among Low-income US Families that receive Children's Supplemental Security Income (SSI)*. Brandeis University: The Heller School for Social Policy and Management. Retrieved from: http://lurie.brandeis.edu/pdfs/SSI%20hardship%20pol%20brief%20final.pdf

reported that poverty was a significant cause of poor school attendance.[10] The report cited homelessness, eviction, recent job loss or family illness as significant contributors to poor school attendance. Reducing a poor family's assistance because of attendance problems will only push them deeper into poverty, creating a cycle whereby poor attendance begets poor attendance. In fact, academic research conducted on a similar school attendance penalty provision in California's Temporary Aid to Needy Families (TANF) program found that attendance penalties failed to reduce truancy.[11] As a result, California's legislature passed bi-partisan legislation to repeal the penalty for most children and put into place a process to identify and support family instability for older children before enacting the penalty.[12]

H.R. 2511 is Medical Exemption Inadequate

The bill establishes an exemption, "where the Commissioner determines that the individual has good medical cause, corroborated by a treating physician." However, as Western Center on Law and Poverty also leads in advocacy on access to health care for low-income families, we can attest to the fact that low-income families are less-likely to have timely access to treating physicians and, even though it is not allowed under state law, some physicians, especially in rural areas, charge a fee for documents requested by patients. Additionally, the bill offers no details about the process that would be required to secure a determination of good cause by the Commission and what would qualify as good cause. The additional administrative burden on SSA offices to review and approve requests for determinations of good cause and to review appeals associated with these determinations could be significant and costly and, most importantly, would drive resources away from supporting families with an SSI-recipient child to achieve full-time school attendance and plan for the transition of that youth as they reach adulthood.

H.R. 2511 is Silent on School Environment Barriers to Attendance

While 2511 addresses school attendance barriers related to health issues, it completely overlooks school environments as a cause of poor school attendance. According to federal sources,[13] "Children with physical, developmental, intellectual, emotional, and sensory disabilities are more likely to be bullied than their peers. Any number of factors— physical vulnerability, social skill challenges, or intolerant environments— may increase their risk." When children are bullied, they are increasingly likely to miss, skip, or drop out of school.

According to Pacer's National Bullying Prevention Center, "Only 10 U.S. studies have been conducted on the connection between bullying and developmental disabilities, but all of these studies found that children with disabilities were two to three times more likely to be bullied than their nondisabled peers. One study shows that 60 percent of students with disabilities report being bullied regularly compared with 25 percent of all students. [In addition,] researchers discovered that students with disabilities were more worried about school safety and being injured or harassed by

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[10] "In School + On Track: Attorney General's 2013 Report on California's Elementary School Truancy & Absenteeism Crisis," Office of Attorney General Kamala Harris, Summer 2013 oag.ca.gov/truancy

[11] Harris, R., Jones, L., & Finnegan, D. Using TANF sanctions to increase high school graduation. *Journal of Sociology and Social Welfare*, 28 (3), 211-222. 2001. and Campbell, D. & Wright, J. The Merced County Attendance Project (MerCAP) Final Evaluation Report.

[12] AB 2382 (Bradford), Chaptered laws of 2014.

[13] www.stopbullying.gov

other peers compared to students without a disability." Pacer's research also shows that bullying that victimizes students with disabilities can lead to higher rates of avoiding school and school absenteeism among this population.

This statistically-proven information informs us that truancy among disabled students receiving SSI often results significantly from being bullied because of their disability and because of how said disability affects them. Being the victim of harsh bullying is a justifiable reason for a disabled student to dread going to school, and to inevitably stop showing up at all. When this is the case, threatening to cease granting SSI benefits to these disabled students is therefore just another way of punishing them because of and making their lives harder because of their disability. Instead of posing threats to this vulnerable population, we need to address the roots of why school absenteeism is so high among disabled students receiving SSI, and one of these reasons is high rates of being victimized by bullying.

Additionally, while disabled public school children who are receiving special education must each have an *Individualized Education Program (IEP)* to address barriers to education and unsupportive school environment, we have found that, without an outside advocate, the IEP process can be inadequate to meet the needs of children. Rather than threatening to take away students' SSI benefits, legislators who are concerned with school participation of child recipients of SSI should seek policies and funding to strengthen this existing mechanism and maximize the potential of IEPs to reduce student absenteeism among SSI recipients.

H.R. 2511 Doesn't Address Barriers & Costs Associated With Verifying Full-Time Student Status

In our advocacy work aimed at increasing life-opportunities of low-income children through reinforcing school attendance policies, such as free transportation, Western Center on Law and Poverty has learned that school attendance and enrollment systems vary significantly from district-to-district. In California alone, there are 1,028 school districts.[14] While data may be trued up and homogenized eventually for the purposes of reporting attendance for state and federal funding, it is not available in real time and is prone to errors. We can only anticipate that this lack of available real-time data that could inform SSI eligibility from month to month would be a problem experienced in most of the larger states if not all of them. Allowing the health and wellbeing of a disabled child to hinge on a data system that is untested for this type of effort is unconscionable. Additionally, the cost of complying with requests for this information would be a mandate to schools and may be significant.

Poor Families with a Child Recipient of SSI are Twice Penalized

In California, all children are required to attend school. Effective 2011, changes to the Education Code and Penal Code allow for financial and civil penalties for pupils and parents whose children are determined to be chronically truant.[15] Parents whose kids miss any more than 10 percent of their classes can be charged with a misdemeanor and a $2,000 fine or a yearlong jail sentence if, after being offered state support and counseling, their children fail to improve their attendance.

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[14] As of the 2013-14 school year, there were 1,028 school districts in California – 341 unified districts, 531 elementary districts, 77 high school districts, and 79 other. http://www.cde.ca.gov/ds/sd/cb/ceffingertipfacts.asp

[15] California Education Code § 48263.6.

Families with an SSI recipient child would face a double penalty if H.R. 2511 were to be enacted. Not only is this penalty duplicative of existing state school attendance penalties and likely similar penalties in other states, but it works counter to the goal: to reduce dependency on the program and support participation in school.

We Oppose H.R. 2511, The "SAIL Act"

Western Center on Law and Poverty supports the concept that every child is deserving of a school education and is committed to reducing barriers to school participation for low-income children. While we believe that the intentions of H.R. 2511 sponsors are well intended, if enacted, this legislation will not achieve the intended goal and, instead, will undermine school attendance of vulnerable children by pushing their families deeper in to poverty and not addressing the underlining problems they face in ensuring regular school attendance.

Sincerely,

Jessica Bartholow
Legislative Advocate
Western Center on Law and Poverty

CC: Honorable Tom Reed, Member of the U.S. House of Representatives
Members of the California Congressional Delegation

Work Opportunity Tax Credit Coalition, Letter

May 21, 2015

The Honorable Paul D Ryan
Chairman, Committee on Ways and Means
House of Representatives
Washington, DC 20515

The Honorable Charles Boustany, Jr
Chairman, Subcommittee on Human Resources
Committee on Ways and Means
Washington, DC 20515

Dear Messrs. Chairmen:

In a comparatively recent development, some state governors have begun recommending that Medicaid recipients be required to work. This proposition relates closely to the role of the work opportunity tax credit in the nation's anti-poverty safety net because non-disabled and non-elderly adults in Medicaid households aren't currently eligible for WOTC.

Proponents say receipt of Federal benefits should be conditioned on commitment to work, as does the Chairman in his proposed reforms of the nation's anti-poverty spending programs. Others object that Medicaid should be premised on the need for health care alone, and not on a work requirement which might operate to reduce access to care.

We are writing to point out that the work opportunity tax credit can operate to help Medicaid recipients find work without reducing their access to care, and thus enable them to start their climb out of poverty and reliance on Medicaid.

The design of WOTC allows a worker to obtain employment in either of two ways: (1) by applying for a job directly to an employer who screens job applicants for WOTC using a simple, one-page, IRS-approved form and then requests a state workforce agency to certify eligible

hires for the credit; or (2) by a worker's receiving a "conditional certification" from a state workforce agency or other designated agency—such as a vocational rehabilitation agency—which they can give to an employer as evidence of their eligibility when applying for work; the employer then asks the state workforce agency for final certification, attaching the conditional certification as evidence. The "conditional certification" is like a hunting license for a job.

Both approaches have been widely used in the operation of WOTC—direct application to employers is used by most food stamp recipients and veterans, while conditional certification is used for disability and welfare recipients. Both methods are efficient and well integrated into WOTC's operations. Employment and Training Administration Form 9062 is used for conditional certification by agencies which have a case management system for their clients and thus have the necessary evidence for WOTC eligibility at their disposal.

ETA Form 9062 can be readily adapted for use by Medicaid recipients to find work. Medicaid agencies can issue conditional certifications to Medicaid recipients for use in their job search. While WOTC is only one factor in an employer's hiring decision, it is a strong factor because it impacts after-tax cash flow and earnings. WOTC puts employers in charge and impacts their demand for labor so that poor and near-poor workers, who are most likely to be Medicaid recipients, have greater opportunity in the labor market. With a conditional certification in hand, all an employer need do is obtain final certification from the state workforce agency and claim the credit on their tax return.

The integrity of the WOTC program is indisputable—with upfront verification by state workforce agencies and after-action verification by IRS audit, WOTC has remained one of the few Federal programs without any significant case of fraud or abuse. The cost-effectiveness of WOTC is also indisputable. Simply dividing the ten-year cost, calculated by Joint Committee on Taxation, by the number of job placements from Department of Labor data, shows that WOTC's average cost per placement of around $1,000 is lower than any direct expenditure jobs program. Every worker is certified, by name and social security number, by a state workforce agency as belonging to a poor or near-poor target group, so it's indisputable these workers have obtained employment—WOTC effectiveness in getting the poor into jobs, where they can begin their climb out of poverty, is proven.

In Fiscal Year 2013, the number of WOTC job certifications reached almost 1.6 million—90 percent of whom were poor because, except for some veterans, ex-offenders, and people with disabilities, the eligible target groups are defined by receipt of benefits that go mainly to the poor and near-poor—welfare, food stamps, and SSI recipients, residents of empowerment zones and other poverty areas. WOTC employment extends to every major sector of the economy, as will be shown by a Department of Labor report soon to be released. Reforming WOTC to add non-profit organizations to the list of eligible employers will open up jobs for low-income workers in the fast-growing sectors of health care and education. A WOTC Coalition study has shown that in health care alone, millions of jobs are open to workers with little more than high school education.

In coming tax reform, WOTC should be made permanent and include households receiving Medicaid as a WOTC target group. This will strengthen the social safety net and, along with the child and earned income tax credits, will anchor both the ability to work and the ability to make work pay. Direct expenditure training programs and welfare supports must culminate in a job if people are to rise from poverty, and there is much evidence of insufficient opportunity for the poor to obtain a job and escape poverty, especially after years living in poverty neighborhoods at poverty incomes. So long as millions are mired in poverty, WOTC is essential to provide greater equality of opportunity. In effect, WOTC helps offset the many cumulative and well-documented disadvantages of being poor.

Thank you for the opportunity to bring this matter to your attention. Should you have any questions, please contact us at 703-587-4566 or wotc@cox.net.

Sincerely,

PAUL E SUPLIZIO
President
Work Opportunity Tax Credit Coalition

Cc: 1. Fact Sheet On WOTC And The Poverty Safety Net
2. List of Organization Members Of WOTC Coalition
3. List of Founding Business Members Of WOTC Coalition

Work Opportunity Tax Credit Coalition, Statement

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SUBMISSION TO SENATE FINANCE COMMITTEE AND HOUSE WAYS AND MEANS COMMITTEE

WORK OPPORTUNITY TAX CREDIT AND THE POVERTY SAFETY NET

The Record

WOTC is a core component of the nation's anti-poverty safety net. In FY 2013, when 1.6 million workers certified for WOTC were an all-time high, 1.4 million or 90% met the poverty or near-poverty tests for SNAP, TANF, or SSI—1.24 million SNAP, 176,000 TANF, 16,500 SSI, and 43,500 ex-felons.(1) WOTC is also a key hiring incentive for veterans and people with disabilities, a large number of whom are poor and homeless, and assists recovery of high-poverty areas.

Tax reform should carefully evaluate each component of tax policy as it relates to the poverty safety net. The child tax credit, earned income tax credit, and work opportunity tax credit are the key triad of tax policy to support and improve opportunity and mobility for people in poverty. These anti-poverty measures are supported by conservatives and liberals alike because they operate through the marketplace to provide work and reward work.

WOTC complements direct expenditure programs for training of low-income or unemployed workers via the Workforce Investment Act, TANF, Social Security Act (for people with disabilities) and Veterans Readjustment Act (for veterans) because at the end of training there is still a road ahead to find employment, and the impediments borne by the poor and homeless (those in most severe poverty), the disabled, veterans, and ex-felons are severe and reflected in their above-average unemployment rates and low workforce participation rates. The hiring incentive for employers provided by WOTC helps offset these barriers, resulting in up to 1.6 million of these workers, specifically identified and certified by their State Workforce Agency, being hired. Employers remain free to make whatever hiring decisions they wish, and the Federal government achieves monetary savings (discussed below) of more than $3.4 billion a year from individuals transitioning from welfare and other public assistance into jobs.

WOTC supports the standard set most recently by Ways and Means Chairman Paul Ryan, "to require all able-bodied recipients to work or engage in work-related activities in return for aid."(2) This continues conservative policy set by President Reagan's passing of the targeted jobs tax credit and earned income tax credit in 1981, and Congressman Jack Kemp's making the jobs credit integral to empowerment zones for poor and depressed areas.

The work opportunity tax credit and earned income tax credit were designed to work together as core safeguards against poverty becoming entrenched, barring access to the middle class. WOTC lends an "extra boost" to the chance of being hired, and EITC supplements the income of the poor with dependents. Chairman Ryan agrees EITC should be continued as core safety net, and even expanded; it would be a mistake to do so without continuing WOTC's extra lift for the poor into jobs, which is the only real basis for exiting poverty.

Why has WOTC grown from a half million jobs in 1997 to 1.6 million today? The answer lies in the nation's population growth and economic conditions—the bottom quintile of the workforce has grown in size. Today, there are more people in poverty and total recipients of SNAP, TANF, and SSI has grown, enlarging the population of WOTC-eligible workers.

In any overhaul of anti-poverty policy accompanying tax reform, WOTC should be made permanent. WOTC could help more of the poor if eligibility were granted to the elderly on food stamps, youth who are out of school and out of work, SSDI and Medicaid recipients. (In WOTC, workers in poverty are identified by receipt of benefits, which makes it easy to verify their eligibility for the tax credit—a poverty income test is too difficult to administer.)

WOTC would be more effective providing jobs in growing occupations with good wages if private non-profit employers and firms with excess credits could claim WOTC against FICA tax, with Treasury reimbursing the Trust Funds.

WOTC Works Through The Marketplace and Has Strong Program Integrity

WOTC doesn't create new jobs—it gives the poor or near poor an extra boost when a private employer is looking to fill an existing job. Our country's larger employers know in advance whether a job applicant is WOTC-eligible because nowadays they require IRS Form 8850 from their job applicants. This one-page form couldn't be simpler—all the applicants do is report their age and check a box if they're SNAP, TANF, or SSI eligible, or are a veteran, formerly incarcerated, live in an empowerment zone or rural renewal county, or in the case of disability, are referred by a State Vocational Rehabilitation Agency or Employment Network.

If hired, the employer sends Form 8850 to their State Workforce Agency with a short DOL form with data on industry, occupation, and wage, requesting the SWA to certify the worker's eligibility for WOTC. *From application to hire, the entire hiring process occurs in the private market without interfering with employers' freedom to recruit and hire whomever they please.*

Because a worker's eligibility is verified by SWA before certifying the worker for WOTC, and claims for WOTC on an employer's tax return are backed by SWA certification and subject to IRS review upon audit, WOTC has strong program integrity that has been confirmed repeatedly by GAO. SWA's issued 1,590,000 certifications and 1,660,000 denials to employers in FY 2013, showing this watch-dog's effectiveness.(3)

WOTC Is Highly Cost-Effective

The data prove WOTC's effectiveness helping the poor obtain jobs—the 1.4 million poor or near-poor workers placed in jobs in FY 2013 are each verified by State Workforce Agencies to be eligible for the credit, down to their SSA wage record—WOTC works and new hires step into productive, tax-paying, private sector jobs.

Not only the unemployed, but also the working poor are aided. The working poor as a group experience low job tenure and sporadic work (4)—when unemployed, they fall back on welfare or food stamps, so WOTC is there for their next job—provided it's with a different employer.

But wouldn't these workers be hired anyway—without the tax credit? The employer will certainly fill the job vacancy but there's no assurance a poor worker will be hired. That would require a higher ratio of poor to non-poor in the pool of job applicants, but the poor are a minority of the workforce and in most labor markets more non-poor workers are applying for jobs. Employers have a choice, and the poor come with the impediments of poverty.

Picture a world without WOTC's market-based, private-sector incentive to hire a poor person looking for a job—left to chance, the poor will be hired less often, earn less income, spend more time in poverty, and have less upward mobility without the "extra boost" of WOTC.

WOTC is capped for most workers at a maximum credit of $2,400. Since employers must reduce their wage deduction by the amount of the credit, the real cost of a single hire to the Treasury is $1,560 for an employer paying a 35% tax rate. In effect, WOTC covers part of the "hiring wedge" of payroll taxes and mandated benefits that are added to wages—and are a proven deterrent to hiring—but the employer still pays the bulk of compensation costs. For a minimum wage hire at $7.50 an hour for 2,000 hours a year, the employer's wage payments alone are ten times the government's cost.

WOTC's efficiency can be seen in the welfare program (TANF), where Congress increased the tax benefit for hiring long-term welfare recipients—the most costly cases and the most difficult to place in jobs. The result was 103,000 long-term welfare recipients finding work during FY 2013, compared to 73,000 short-term recipients. WOTC adapted to the special needs of long-term welfare cases by employers boosting their hiring in response to the added benefit. With WOTC, it's not necessary for states to ask that welfare's work requirement be waived.

TANF provides employment and training grants to the states which are sometimes used to fund public sector or non-profit jobs for welfare recipients at the rate of around $12,000 per year per worker. In six months, a minimum wage WOTC worker will earn $7,500 in a private sector job at a cost to the Treasury of $1,560, while a public sector or non-profit job costs almost four times that. The less-costly WOTC route helps states economize their limited TANF funds, and results in a productive, tax-paying, private sector job.

Overall, WOTC's ten-year cost for permanent extension is given by the Joint Committee on Taxation as $17.485 billion for Fiscal Years 2016-2025 (5). Another $180 million of federal funds must be added for SWA administration, making the total $17.665 billion. The FY 13 rate of 1.6 million WOTC hires per year yields 16 million hires over the next ten years. This implies an average cost per hire of $1,100, which is below the $1,560 cost for the $2,400 credit due to the

lower job tenure of poor workers, many of whom work intermittently or quit to find higher wages or full-time jobs.

For small and medium-size employers who use WOTC, the entire tax saving is plowed back into their home state, and this saving in liquidity and after-tax earnings can be estimated by multiplying $1,100 times the number of state WOTC job certifications for the year. *We see every state's economy benefiting while a poor worker finds employment—a win-win situation!*

In an important study, Professor Peter Cappelli of the Wharton School has estimated TANF saving of $19,282 per WOTC job, and potentially higher savings for veterans and people with disabilities. Multiplying $19,282 by 175,683 TANF recipients in FY 2013 equals gross one-year saving of $3.4 billion on TANF alone, and similar saving would recur each year.(6) Over ten years, this is double the 10-year cost of WOTC given by the Joint Committee on Taxation.

Our conclusion is that WOTC is the most efficient, adaptable, and cost-effective of all Federal job programs. For questions or comments, please respond to wotc@cox.net.

Lists of organization and business members of WOTC Coalition are at www.wotccoalition.com.

FOOTNOTES:

1. U.S. Department of Labor, Employment and Training Administration, *WOTC Certifications by Recipient Group Regional and National Details For FY 2013*
2. Congressman Paul Ryan, House Budget Committee Discussion Draft, *Expanding Opportunity In America,* July 24, 2014
3. U.S. Department of Labor, Employment and Training Administration, op. cit.
4. U.S. Department of Labor, Bureau of Labor Statistics, *Profile of the Working Poor,* 2015
5. U.S. Congress, Joint Committee on Taxation, *Estimated Budget Effects of the Revenue Provisions Contained in the President's Fiscal Year 2016 Budget,* JCX-50-15, Mar 6, 2015
6. Cappelli, Peter, *A Detailed Assessment of the Value of WOTC,* Wharton School, 04/2013

Date of submission: April 13, 2015

LIST OF ORGANIZATION MEMBERS OF WOTC COALITION

American Association of Retired Persons
American Association of the Deaf-Blind
American Association of People with Disabilities
American Congress of Community Supports and Employment Services
American Council of the Blind
American Foundation for the Blind
American Health Care Association
American Hospital Association
American Hotel & Lodging Association
American Medical Rehabilitation Providers Association
American Staffing Association
AMVETS
Associated Builders and Contractors
Associated General Contractors
Autism Society of America
Best Buddys Jobs
Blinded Veterans Association
Building Service Contractors Association International
Children's Defense Fund
Community Service Society of New York
Consortium for Citizens With Disabilities
Council of State Administrators of Vocational Rehabilitation
Disabled American Veterans
Easter Seals
Epilepsy Foundation of America
Federation of American Hospitals
Food Marketing Institute
Goodwill Industries
International Association of Business, Industry and Rehabilitation
International Association of Jewish Vocational Services
International Association of Amusement Parks and Attractions
International Franchise Association
NISH-Creating Employment Opportunities for People With Significant Disabilities
National Association for the Advancement of Colored People
National Association of Chain Drug Stores
National Association of Convenience Stores
National Association of the Deaf
National Association of Governors Committees on People With Disabilities
National Association of Manufacturers
National Council of Chain Restaurants
National Council on Disability
National Council on Independent Living
National Council of La Raza
National Disability Rights Network
National Down Syndrome Congress
National Employment Network Association
National Franchisee Association
National Grocers Association
National Industries for the Blind
National Partnership for Women and Families
National Puerto Rican Coalition

National Retail Federation
National Restaurant Association
National Urban League
Paralyzed Veterans of America
Retail Industry Leaders Association
Service Station Dealers of America and Allied Trades
Society for Human Resource Management
The American Legion
The Arc of the United States
Tire Industry Association
Transition
United Cerebral Palsy
United Farm Workers of America, AFL-CIO
Veterans of Foreign Wars of the U.S.
Vietnam Veterans of America
Volunteers of America (California)
World Institute On Disability
Alliance for Retired Americans
Washington Maryland Delaware Service Station and Automotive Repair Association

FOUNDING BUSINESS MEMBERS OF THE WOTC COALITION

Ahold USA, Landover, MD
Chevron Texaco Corporation, Houston, TX
Food Lion, Charlotte, NC
Boddie-Noell, Rocky Mount, NC
Rite Aid Corporation, Camp Hill, PA
Goodwill Industries, Silver Spring, MD
Safeway, Pleasanton, CA
ConAgra Foods, Omaha, NE
Duckwall-Alco Stores, Abilene, KS
Hilton Hotels, Beverly Hills
Manor Care, Toledo, OH
PepsiCo, Cincinnati, OH
Archer Daniels Midland Company, Decatur, IL
The Kroger Co, Cincinnati, OH
ADP Payroll Services, Roseland, NJ
Randstad USA, Atlanta, GA
Kelly Services, Troy, MI
White Castle System, Columbus, OH
TaxBreak Credits, Gadsden, AL
Kum & Go, Des Moines, IA
The Pep Boys - Manny, Moe, & Jack, Philadelphia, PA
Bi-Lo, LLC, Greenville, SC
7-Eleven, Dallas, TX
Walton Management Services, Ocean, NJ
ABM Industries, NY, NY
Work Train USA, Birmingham, AI
G4S USA, Jupiter, FL
Hyatt Corporation, Chicago, IL
PepsiAmericas, Minneapolis, MN
MAMIMUS, Reston, VA
MARS/Stout, Missoula, MT
Darden Restaurants, Orlando, FL
Hromiko & Associates, CA

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