Disability Fraud Reduction And Unethical Deception (FRAUD) Prevention Act

Fraud in Social Security programs takes resources directly away from hard working taxpayers and from those who earned and truly deserve their benefits. In further efforts to deter and prevent fraudsters from ripping off taxpayers and Social Security beneficiaries, Chairman Hatch is introducing the *Disability Fraud Reduction and Unethical Deception Prevention Act—or Disability FRAUD Prevention Act.*

The Act updates and expands the Social Security Administration's (SSA's) tools to deter and punish fraudsters who cheat the system. It imposes appropriate civil monetary penalties and felony charges on those defrauding either the retirement (Old Age and Survivors Insurance, or OASI) program, the Disability Insurance (DI) program or the Supplemental Security Income (SSI) program. Recent disability scandals in West Virginia, New York, and Puerto Rico highlight the need to strengthen and expand Social Security's penalties and diligence on fraud deterrence.

For example, in October 2013, the Senate Homeland Security and Governmental Affairs Committee concluded a bipartisan investigation into how a West Virginia law firm, judge, and several doctors colluded in awarding benefits to hundreds of applicants. Disability attorney Eric Conn allegedly hired doctors with suspended or revoked licenses to provide favorable medical evidence for his clients. Administrative Law Judge David Daugherty would allegedly then award benefits to Mr. Conn's clients based on falsified medical opinions. Despite the seemingly overwhelming evidence against him, the Department of Justice has so far declined to pursue criminal or civil charges against Mr. Conn.

The *Disability FRAUD Prevention Act* takes a number of steps to ensure that fraud rings like those in the cases mentioned above are brought to justice and cannot continue to defraud taxpayers and disability insurance beneficiaries who rightly deserve their benefits. The steps include:

Immediate Dismissal of Criminal Claimant Representatives

- Because of a lengthy dismissal process, claimant representatives who have been disbarred or convicted of a felony can represent claimants for a year or more after a conviction under current law and practice. The Act allows the Commissioner of SSA to suspend an attorney convicted of a felony or a crime of moral turpitude immediately after notice, pending an expedited hearing.

Stronger Penalties and New Fines that SSA Must Collect Promptly

- ***Conspiracy to Commit Social Security Fraud—***When a third party conspires with a person to defraud SSA without causing that person to make false statements, it can be difficult to prosecute. The Act provides that anyone who conspires with an individual to perpetrate fraud on SSA in violation of the fraud statutes of the Social Security Act will be subject to fines and/or imprisonment of up to five years.

- ***New Felony for Individuals in Positions of Trust*****—**Recent scandals have involved individuals in positions of trust, such as claimant representatives who collected "coaching" fees for helping claimants provide false information when applying for disability benefits. The Act would subject individuals in a position of trust who use their specialized knowledge to defraud the SSA to fines and/or imprisonment of up to 10 years.
- ***Increased Civil Monetary Penalties for Individuals in Positions of Trust*****—**The Act provides that if an individual in a position of trust violates the Social Security Act, but has not been criminally prosecuted or pursued civilly by the Department of Justice, then SSA's Office of the Inspector General may impose a civil monetary penalty of up to $7,500 for each false statement made.

Inflation Adjustment of Certain Civil Monetary Penalties

- Most agencies are allowed to adjust civil monetary penalties for inflation at least once every four years; but, SSA is excluded from doing so. The Act conforms SSA with most other agencies by requiring that the Commissioner of SSA adjust the amounts of civil monetary penalties for inflation within 180 days of enactment of the Act, and then once every four years thereafter. Inflation-indexed amounts are to be published in the Federal Register.

Mandatory Restitution in Social Security and Supplemental Security Income (SSI) Cases

- Criminal provisions of the Social Security Act provide that a court *may* order restitution. The Act replaces current law with the requirement that courts *must* order individuals who commit fraud to pay full restitution.
- The Act will disallow benefits for any individual who receives a civil monetary penalty for fraudulently concealing work.
- And, while SSA's Commissioner will retain discretion in adjusting civil monetary penalties in individual cases, SSA must, under the Act, pursue recovery of the civil monetary penalties that the Commissioner sets.

Review of Highest-Earning Claimant Representatives

- Disability insurance claimant representation has become a lucrative industry for some, with some "high-volume" claimant representatives collecting hundreds of millions in fee payments with little oversight by SSA. The Act requires that SSA's Office of the Inspector General review the highest-earning claimant representative firms to ensure that they are complying with Social Security laws and regulations.