



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

Testimony of Eileen P. Sweeney
Center on Budget and Policy Priorities
on behalf of
the Social Security Task Force of the Consortium for Citizens with Disabilities
on Administrative Challenges Facing the Social Security Administration
before the Finance Committee
United States Senate
March 14, 2006

On behalf of:

American Association of People with Disabilities
American Association on Mental Retardation
Association of University Centers on Disabilities
Bazelon Center on Mental Health Law
Easter Seals
National Association of Councils on Developmental Disabilities
National Association of Disability Representatives
National Disability Rights Network
National Organization of Social Security Claimants' Representatives
NISH
Paralyzed Veterans of America
The Arc of the United States
Title II Community AIDS National Network
United Cerebral Palsy
United Spinal Association
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Mr. Chairman and members of the Committee, I appreciate this opportunity to testify on this important question.

I am a senior fellow at the Center on Budget and Policy Priorities. I also am a Co-chair of the Social Security Task Force of the Consortium for Citizens with Disabilities (CCD). CCD is a working coalition of more than 100 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 in the United States. The CCD Social Security Task Force focuses on disability policy issues in the Title II disability program and in the Title XVI Supplemental Security Income (SSI) program. I am testifying today on behalf of the Task Force.

The topic of this hearing is especially important to people with disabilities who rely upon the Social Security Administration: to adjudicate completely and fairly their applications for disability benefits; for payment of their monthly Social Security and Supplemental Security Income benefits; to withhold their Medicare Part B and Part D premiums from their benefits; to determine their eligibility for Part D drug subsidies, also known as “extra help;” and to make accurate and timely determinations on post-entitlement issues that may arise in their cases. Like millions of others across the nation, people with disabilities count upon SSA to issue Social Security numbers for their newborn children, to issue replacement SSN cards when needed, to record and maintain their earnings records, to correctly answer their questions when they call the “800” number, and to meet with them when they visit one of the approximately 1300 SSA field offices with questions or reports.

In my testimony, I address four key points related to SSA’s administrative challenges.

First, SSA is doing a good job with limited resources. There is much that remains to be done and some workloads that need more attention, but Commissioner Barnhart has made great strides in improving the agency’s technological capacity in ways that will help it accomplish its work. We are concerned, however, that SSA does not have adequate funds for the current fiscal year and will not have sufficient funding under its proposed budget for fiscal year 2007. SSA’s budget materials for FY 2007 indicate that at the funding levels being requested, the recent progress will not be able to be sustained.

Second, we believe that SSA needs more funding to provide the level of post-entitlement work that is required in both the Social Security and SSI programs. By “post-entitlement” work, I mean the contacts that SSA has (or should have) with a beneficiary once the person begins to receive Social Security or SSI benefits.

Third, we are concerned that SSA have sufficient funds to maintain the level of continuing disability reviews (CDRs) that it should be doing in Social Security and SSI disability cases. These reviews are essential to maintaining the integrity of the disability determination process.

Fourth, without additional resources, SSA is not going to be able to keep up with the technological challenges it faces. SSA’s future success may be threatened by Congressional interest in adding to its workload, especially in verifying employee SSNs and immigration status, unless SSA is provided with adequate additional resources to address the new workloads over the

long term. Further, Congress should try to identify a way to ensure that SSA’s budget is not reduced arbitrarily through across-the-board cuts or affected in ways that compromise the service that SSA provides, as a result of pressure from very tight ceilings on total discretionary funding.

The remainder of my testimony discusses these points in greater detail.

I. SSA is doing a good job with limited resources. But there is much that still needs to be done, and SSA will not be able to sustain recent progress at the funding levels that have been requested.

Overall, SSA currently is a well-managed agency. Commissioner Barnhart has taken numerous steps to improve SSA’s technology and procedures so the agency is better able to accomplish its missions. However, we are concerned that SSA does not have adequate resources to meet all of its current responsibilities, including some of importance to people with disabilities.

Of greatest concern, even with the increase that SSA seeks for FY 2007, it will need to reduce its staff. SSA is seeking \$387 million more for fiscal year 2007 than it has received for fiscal year 2006, but this figure will not even leave the agency staffing whole. This budget request will result in a loss of 2,545 full-time staff positions/work years.¹ This is a result of increased costs for salaries and benefits for existing staff. As a result, we believe SSA needs more funds than it is seeking.

These staffing reductions may translate into SSA being less able to do post-entitlement work and not being able to reduce the backlogs in the administrative appeals process. Both of those tasks require sufficient commitments of staff time. Without adequate staffing, these are areas of work that tend to stagnate quickly, resulting in increased backlogs or, with post-entitlement work, cases being ignored.

SSA’s progress in reducing delays related to administrative appeals is projected to slow down — actually to worsen in some cases — in fiscal year 2006. For example, in fiscal year 2005, SSA’s average processing time for initial disability claims was 93 days. SSA had proposed to

¹ See *FY 2007 President’s Budget, February 6, 2006, Congressional Briefings (hereinafter, “SSA FY 2007 Congressional Briefings,”* page 11, “SSA’s FY 2007 Administrative Budget: Full-Time Equivalents and Workyears.” The chart provides the following information:

	2006 estimate	2007 estimate	+/-
SSA FTEs (including OIG)	63,998	62,036	-1,962
SSA overtime and lump sum leave	2,398	1,948	-450
<u>DDS Workyears</u>	<u>14,398</u>	<u>14,265</u>	<u>-133</u>
Total SSA/DDS Workyears	80,794	78,249	-2,545

reduce that figure to 91 days in the President's fiscal year 2006 budget, but with its enacted fiscal year 2006 appropriation, SSA expects only to maintain, not reduce, this processing time — keeping it at 93 days. Further, SSA is not proposing to reduce this figure in fiscal year 2007, when it will again be 93 days.

More troubling, the average processing time for hearing decisions at the Administrative Law Judge level was 415 days in fiscal year 2005. That is far too long. Yet, in fiscal year 2006, SSA expects that the average time frame will *climb* to 467 days, an additional 52 days.² SSA expects this to be the average figure in fiscal year 2007 as well. While this will include processing an additional 17,000 hearing decisions in fiscal year 2007, SSA should be provided sufficient funds to reduce the delays while also processing more decisions.³ This suggests that SSA is not asking for sufficient funds in its overall Limitation on Administrative Expenses (LAE) request to reduce these delays.

II. SSA does not have the resources it needs to fully address its post-entitlement workloads.

Not surprisingly, with millions of new applications each year, SSA emphasizes the importance of processing applications, determining eligibility, and providing benefits. Once a person begins to receive monthly benefits, there are many reasons why SSA may need to respond to contacts from the person or to initiate a contact. This is known as “post-entitlement work” and generally does not receive the priority it should. All too often, when SSA is short on staff and local offices are overwhelmed by incoming applications and inquiries, they are less attentive to post-entitlement issues. For people with disabilities, this can discourage efforts to return to work, undermining an important national goal of assisting people with disabilities to secure and maintain employment.

One example of post-entitlement work that has fallen by the wayside in the past is the processing of earnings reports filed by people with disabilities. For many years, beneficiaries of Social Security or SSI disability payments who wish to return to work have found that they can end up owing SSA substantial sums as a result of overpayments for which they were not at fault. Typically, this has happened when the individual calls SSA and reports work and earnings or brings the information into an SSA field office, but SSA fails to input the information into its computer system and does not make the needed adjustments in the person's benefits. Then, months or years later, after a computer match with earnings records, SSA determines that the person was overpaid and sends a notice to this effect. All too often, after receiving the overpayment notice, the beneficiary will tell SSA that he or she reported the income as required and SSA will reply that it has no record of the reports.

² SSA, *SSA FY 2007 Congressional Briefings*, pages 8 and 14.

³ SSA processed 519,000 cases at the appeals level through ALJ decision in fiscal year 2005 and expects to process 560,000 cases through the ALJ decision in fiscal year 2006 and 577,000 cases through the ALJ decision in fiscal year 2007. *Id.*, pp. 9 and 15.

Depending on which program the person participates in — Social Security or SSI — discovery that the person is working may result in complete loss of cash benefits (Social Security) or a reduction in cash assistance (SSI). It also can affect the person's health care coverage. To collect the overpayment, SSA may decide to withhold all or a portion of any current benefits owed, or SSA may demand repayment from the beneficiary if the person is not currently eligible for benefits. The result of this is that some individuals with disabilities are wary of attempting to return to work, out of fear that this may give rise to the overpayment scenario and result in a loss of economic stability and potentially of health care coverage upon which they rely. As a result of this long-term administrative problem, anecdotal evidence indicates that there is a widespread belief among people with disabilities that it is too risky to attempt to return to work, because the beneficiary may end up in a frightening bureaucratic morass of overpayment notices, demands for repayment, and benefit termination.

Recently, SSA has been making some significant progress on this issue. It has developed the "eWork" system, a new computer process through which SSA staff record reports of earnings from Social Security disability beneficiaries. The system is designed so that office managers know when there is additional work to be done on the case in order to ensure that the information is input completely into the system and acted upon in a timely manner. SSA is working on a parallel system for SSI, but that system is not yet operational. As a result of SSA's effort on "eWork," SSA theoretically and practically is situated to resolve this long-standing problem and hopefully to eliminate a serious work disincentive. But that will not occur if this work is not given priority. Without the staffing needed to conduct this post-entitlement work, we are concerned that these cases will continue not to be processed in a timely manner.

SSA's ability to respond to work reports submitted by Social Security and SSI disability beneficiaries in a timely manner is essential if progress is to be made in realizing Congress' goal of reducing work disincentives in the Social Security and SSI disability programs and encouraging more beneficiaries to attempt to return to work. With the increases expected in applications from retirees and people with disabilities over the next few years — and the staff reductions already being built into SSA's budget request — the encouraging work now underway on earnings reports is likely to be pushed to the side if SSA does not have sufficient funding to do the requisite post-entitlement work.

III. SSA needs additional funds to conduct more continuing disability reviews and to remain current on SSI redeterminations.

In 1984, Congress corrected some very troubling problems that were occurring — individuals with severe disabilities were being arbitrarily terminated from the program — by developing and enacting the current continuing disability review (CDR) rules. It is essential both to beneficiaries and to SSA that Congress provide SSA with sufficient funds to conduct these reviews.

In fiscal year 2007, SSA seeks a total of \$490 million to conduct continuing disability reviews. This includes \$289 million in base funding and another \$201 million in additional funds.⁴ SSA has reported that each dollar spent on CDRs returns \$10 in benefit savings to the program.⁵

Failure to provide SSA with adequate funds to stay current with the processing of continuing disability reviews would, over time, diminish the integrity and accuracy of the disability programs. To protect program integrity and avert improper payments, it is essential that SSA conduct ongoing, regular reviews (CDRs) to determine whether recipients with disabilities continue to be eligible.

Failure to conduct the full complement of CDRs would have adverse consequences for the federal budget and the deficit. As noted, SSA has determined that CDRs result in \$10 in program savings for each \$1 spent in administrative costs in conducting these reviews. SSA estimates that the CDRs it conducted in 2002 “are expected to yield \$6 billion in lifetime program savings.”⁶ To put this figure in context, of the one million Social Security continuing disability reviews that SSA conducted in fiscal year 2001, SSA continued benefits in 96 percent of the cases reviewed and terminated benefits in four percent of the cases.⁷ Even though the great majority of CDRs result in continuation of benefits, the savings from those CDRs that result in terminations are substantial because of the size of the program and the value of the benefits provided.

The number of CDRs that SSA will conduct is directly related to whether SSA receives the additional funds it needs to conduct these reviews. SSA conducted 537,000 medical CDRs in fiscal year 2005 and had proposed to conduct 750,000 such reviews in fiscal year 2006. However, that number has been reduced to 360,000 for fiscal year 2006 due to the lower level of appropriations provided for SSA. In fiscal year 2007, with some funds sought outside the discretionary caps through a cap adjustment, SSA hopes to do 597,000 CDRs.⁸ We urge Congress to ensure the funding is there to undertake these reviews.

⁴ The \$289 million in base funding includes \$60 million for SSI CDRs and \$229 million for Social Security disability CDRs. The \$201 million in additional funding being requested for fiscal year 2007 includes \$60 million for SSI CDRs and \$141 million for Social Security disability CDRs. *Social Security Administration: Fiscal Year 2007, Justification of Estimates for Appropriations Committees*, Social Security Administration, SSA Pub. No. 22-017, February 2006, page 63, footnote 2.

⁵ See *SSA: The Fiscal Year 2007 Budget Press Release*, SSA, page 12.

⁶ *Social Security Administration: Fiscal Year 2005: Justification of Estimates for the Appropriations Committee*, SSA Pub. No. 22-017, February 2004, page 74.

⁷ *2004 Green Book*, Committee on Ways and Means, U.S. House of Representatives, Table I-44, page I-70.

⁸ *SSA FY 2007 Congressional Briefings*, pages 9, 15. The President seeks \$201 million for CDRs in fiscal year 2007 and \$213 million in fiscal year 2008 that would be outside the normal ceiling on discretionary appropriations. The budget proposal also includes \$289 million for CDRs within the discretionary ceiling in fiscal year 2007. See also, footnote 4, above.

IV. SSA's future success depends on Congress acting to find ways to boost its budget now — and to significantly supplement its budget over the long term as caseloads grow and when new workloads otherwise are added.

SSA's appropriation competes with that for other programs under the Labor, HHS and Education Appropriations Subcommittee. In addition, when there is an across-the-board cut in funding, SSA is affected. Finally, new work often is added by Congress, without new funds to undertake the work being provided.

When Congress imposed the across-the-board cut on discretionary funding for fiscal year 2006, SSA lost close to \$91 million.⁹ Although the President originally requested \$9.403 billion for SSA for fiscal year 2006, Congress had appropriated \$9.199 billion prior to the across-the-board cut. With the loss of the additional \$91 million, SSA received almost \$300 million less than the President requested.¹⁰

In addition, Congress sometimes passes provisions that show savings in entitlement costs while failing to recognize the administrative costs to SSA of implementing those provisions. Three recent examples are:

1. The Deficit Reduction Act (DRA) signed into law on February 8, 2006 requires that SSA conduct pre-effectuation reviews on 20 percent of initial SSI allowances at the state disability determination service level in fiscal year 2006. This number grows to 50 percent of allowances in fiscal year 2008 and thereafter.¹¹ These are cases in which SSA has determined that the person is eligible for benefits but now must review a percentage of those decisions prior to finalizing the allowances. Under the new rules, SSA must review these cases for accuracy (and possibly change its decision) prior to issuing the decision.
2. Also in the DRA, Congress changed how SSI lump sum benefits are to be paid to recipients. Under the change, SSA is required to issue lump sum retroactive awards beginning with a first payment equivalent to three months of benefits. This previously had been 12 months.¹² The underlying provision that the DRA changed makes clear that in cases where the amount of the first installment payment works a hardship for the individual because he or she has debts that need to be repaid, SSA will provide a higher amount to help cover these debts.¹³ Until now, because the first installment equaled up to 12 months of benefits, few new SSI recipients apparently have needed to avail themselves of the ability to request that SSA issue a different, higher amount. Now that the first installment will be

⁹ Social Security Administrations: Fiscal Year 2007: Justification of Estimates for Appropriations Committees, SSA Office of Budget, SSA Pub. No. 22-017, February 2006, page 75.

¹⁰ SSA requested \$9,403,000,000 in fiscal year 2006. Congress appropriated \$9,199,400,000 and then rescinded \$90,794,000 in Public Law 109-148, Department of Defense Appropriations Act of 2005. *Social Security Administration: Fiscal Year 2007, Justification of Estimates for Appropriations Committees*, Social Security Administration, SSA Pub. No. 22-017, February 2006, pages 75-77 and footnote 22.

¹¹ Section 7501, Deficit Reduction Act of 2005, Pub. L. 109-171, signed February 8, 2006.

¹² *Id.*, Section 7502.

¹³ Section 1631(a)(10)(B)(iii), 42 U.S.C. §1383(a)(10)(B)(iii).

limited to three months of SSI benefits even though SSI disability beneficiaries may have been made to wait much longer than that to begin receiving benefits — and thus may have incurred substantial debts — it is likely that many more beneficiaries will need to ask SSA to make the special determination and issue a larger first payment. This will be a new workload for SSA staff.

3. In the Social Security Protection Act of 2004, Congress expanded SSA’s workload related to “fleeing felons.”¹⁴ Since January 2005, the ban on felons and probation and parole violators receiving benefits applies not only to SSI (the rule has applied since 1996 in SSI) but also to Social Security beneficiaries. Also, there now is a “good cause” exception that allows payment of benefits under certain circumstances. It may sound simple to do a computer match, determine that a person is a fleeing felon or violating probation or parole and then terminate benefits, but these are people who sometimes have serious mental impairments or terminal illnesses and they may require assistance in figuring out what happened and how to respond. They may need to meet with SSA staff in the field offices to understand the process and what action they need to take, as well as to determine if they are eligible for continuation of benefits under the “good cause” exception. Staff time is a valuable SSA resource, one that it needs more of. The less time that SSA spends on these cases, the more that individuals can be harmed by inappropriate applications of the rule.

In none of these cases did Congress provide separate funding for SSA to do the additional work. The assumption is that SSA will work it out and, if needed, will seek additional funding as part of its next annual request. That would make sense if it were not for the tight discretionary spending ceilings the budget resolutions are imposing and the fact that SSA’s budget must compete with the budgets of many smaller but important discretionary programs that are in the Labor, HHS and Education appropriations bill. Unless Congress acts to identify another way to secure additional funds for SSA on a reliable basis — not simply for a year or two, as happened with the additional Medicare Part D funds — we worry that SSA’s workload will continue to grow but its administrative funding will not follow suit.

An example of potential long-term costs are the efforts to expand employer verification of Social Security Numbers (SSNs) to employers and employees, as Congress is currently contemplating. Without expressing an opinion on these proposals, should Congress pass such a law, it is essential that it provide funds for SSA to implement this very large increase in workload — not just for a year or two, but out past 2010 when CBO says the caseload costs would rise very substantially.¹⁵ If Congress does not do this, then one can anticipate that something else important at SSA will not get done or will be done inadequately. Would it be the

¹⁴ Section 203, Pub. L. 108-203.

¹⁵ CBO estimates that the cost to SSA of implementing its responsibilities under HR 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, would be \$200 million over the 2006 to 2010 period. SSA’s costs will continue at high levels outside the five-year window; CBO estimates that SSA’s costs will be about \$640 million over the 2006 to 2015 period. “Under the bill, the agency’s cost to process employment verification inquiries would increase substantially after 2010 when all private employers would be required to check the eligibility of their entire workforce by 2012.” CBO Cost Estimate on HR 4437, December 13, 2005, page 4, <http://www.cbo.gov/ftpdocs/69xx/doc6954/hr4437.pdf>.

continuing disability reviews? Longer processing times for applications? Longer times to issue SSNs and replacement SSNs?

Conclusion

Thank you for this opportunity to testify today. The CCD Social Security Task Force believes that SSA has been making strides in addressing delays in the disability determination process and in the post-entitlement workloads but recognizes that much more is needed. And, we worry that SSA will not be provided sufficient funds to conduct the continuing disability reviews. We are concerned that, at the level of funding provided in fiscal year 2006 and the level requested for fiscal year 2007, some progress that already has been made will be eroded. We urge Congress to ensure that SSA receives adequate funds to maintain and improve upon its vital work.