

Statement of Chairman Sam Johnson (R-Tx) June 27, 2012

Chairman Sam Johnson (R-TX)

Subcommittee on Social Security

Hearing on Securing the Future of the

Social Security Disability Insurance Program

June 27, 2012

(Remarks as Prepared)

Good afternoon and welcome to our fourth hearing in our series on securing the future of the Social Security Disability Insurance program. Today we will focus on how Social Security disability claims are appealed and whether the process works as well as claimants and taxpayers have the right to expect.

In earlier hearings we have highlighted the explosive growth of the program. At a time when the number of workers paying into the system has increased nearly 70 percent between 1970 and 2011, the number of people receiving disability benefits has increased by over 300 percent, from 2.6 million to over 10.4 million.

By 2021, the number of beneficiaries will exceed 12 million. By then total benefits paid will reach \$196 billion. That's a 52 percent increase over the \$129 billion paid in benefits last year.

The size of the overall workforce, more women in the workforce, the aging of the baby boomers into their disability-prone years, and relaxed eligibility requirements have all contributed to this growth.

That continued growth is putting a massive strain on the Social Security Disability Insurance program. As we heard from the Public Trustees at our hearing last week, without Congressional action the Disability Insurance Trust Fund will be able to pay only 79 percent of benefits beginning in 2016, just four years from now.

The path we are on is unsustainable, and we are putting individuals with disabilities at risk if we do not act.

Further, disability applications have spiked even higher than expected due to the recession and the snail's pace recovery, reaching an unprecedented 3.3 million last year. Resulting appeals have further increased pressure on an appeals process that is struggling to keep up.

Americans are also paying more for Social Security to administer its programs. Costs are up 68 percent compared to 10 years ago. Last year, administering disability programs cost nearly \$7 billion, two-thirds of Social Security's operating budget of \$11.4 billion.

Turning to the appeals process, those whose initial claims for benefits are denied have the right to appeal through four levels of

appeal:

Reconsideration by the State agency that made the initial decision;

Hearing by an administrative law judge;

Review by the Appeals Council; and

Federal court review.

An open record allows claimants to add new evidence to the file through every step of the appeals process within the agency.

Even though about 79 percent of all awards are made at the State Disability Determination Services according to Social Security, last year about 860,000 claimants filed an appeal to appear before an Administrative Law Judge.

Americans are rightly paying attention to the hearings process. Even though claimants are waiting close to a year on average for a decision, almost 12 percent of ALJs decide 200 or fewer cases per year. This is in spite of the fact that Social Security asks these judges to decide between 500 and 700 cases annually. Also, the decisions of so-called "outlier" judges, who deny or allow most of the cases they hear, can't be questioned.

Claimant's representatives are part of a billion dollar plus a year industry, encouraging appeals and making a living by collecting their fees from the benefits awarded their clients.

Further, when cases are appealed to the Federal courts, the courts have taken it upon themselves to reinterpret what the Social Security Act requires. This has resulted in varying policies applied in different parts of the country in what is supposed to be a national program.

Now I know some of my colleagues believe that all these problems can be solved if we will just give Social Security a bigger budget. In fact, over the last six years funds have been poured into the hearing level for ALJ hiring, staff hiring, new offices, and technology fixes.

And while service has improved, it seems success is always just a little further down the road and depends on even more resources.

Yet in these tough fiscal times Social Security has done well. Its operating budget increased this year, compared to last year, despite a 1.5% decrease in the discretionary spending cap.

In fact, while Social Security is subject to the same long term domestic spending limit enacted in the Budget Control Act, that same bill authorized an additional \$11 billion over the budget caps for Social Security to increase continuing eligibility reviews in its disability programs. There were 95 Democrats, including the Minority Leader of the House and the Ranking Member of the full Committee, who supported this bill.

Understanding why the appeals process works the way it does is just as important as making sure that those who deserve benefits receive them.

So let's ask the hard questions to determine if we can fundamentally do better.

Why do over 20 percent of claimants who are ultimately awarded benefits have to wait at least a year for a decision?

How can benefits be awarded to those who qualify as soon in the process as possible?

Why does Social Security channel so many of its resources to the most expensive step in the appeals process, even when the cost to process a case before an ALJ is more than twice what it costs a State agency to decide?

Why aren't claimants' attorneys doing a better job of submitting all the evidence earlier?

Should representatives be able to encourage a client who has waited months for a hearing to wait even longer so they'll get a judge who is more likely to award them benefits?

Why do some judges hold hearings for 10 minutes and others for two hours?

Why are the courts remanding almost 50 percent of the cases brought before them?

Today we have a number of outstanding witnesses before us, including a Commissioner who's done more to engage the attention of Congress on the wide array of needed improvements to the appeals process than any other Commissioner has in decades.