

CHALLENGES FACING THE NEW COMMISSIONER
OF SOCIAL SECURITY

HEARING

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY

AND THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

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JOINT HEARING TO REVIEW THE CHALLENGES FACING THE NEW COMMISSIONER OF SOCIAL SECURITY

THURSDAY, MARCH 12, 1998

HOUSE OF REPRESENTATIVES, COMMITTEE ON WAYS AND
MEANS, SUBCOMMITTEE ON SOCIAL SECURITY, AND THE
SUBCOMMITTEE ON HUMAN RESOURCES,

Washington, DC.

The subcommittees met, pursuant to notice, at 10:04 a.m., in room 1100, Longworth House Office Building, Hon. Jim Bunning (Chairman of the Subcommittee on Social Security) and Hon. E. Clay Shaw, Jr. (Chairman of the Subcommittee on Human Resources) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON SOCIAL SECURITY AND SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE
March 3, 1998
No. SS-14

CONTACT: (202) 225-9263

Bunning and Shaw Announce Joint Hearing to Review the Challenges Facing the New Commissioner of Social Security

Congressman Jim Bunning (R-KY), Chairman, Subcommittee on Social Security, and Congressman E. Clay Shaw, Jr., (R-FL), Chairman, Subcommittee on Human Resources, both of the Committee on Ways and Means, today announced that the Subcommittees will hold a joint hearing to review the challenges facing the new Commissioner of the Social Security Administration (SSA). **The hearing will take place on Thursday, March 12, 1998, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Subcommittees and for inclusion in the printed record of the hearing.

BACKGROUND:

On September 29, 1997, Kenneth S. Apfel was sworn in as the new Commissioner of Social Security. Mr. Apfel is the first Commissioner confirmed by the Senate since SSA became an independent agency on March 31, 1995.

SSA's programs account for 30.5 percent (\$484 billion) of all Federal receipts, 25.2 percent (\$404 billion) of all Federal expenditures, and 5.6 percent of the nation's \$7.2 trillion Gross Domestic Product during fiscal year 1997. SSA's fiscal year 1999 budget proposal anticipates paying benefits to almost 49 million people every month, processing over 5 million claims for benefits, issuing almost 17 million new and replacement Social Security numbers, posting 255 million earnings items to workers' earnings records, and receiving almost 70 million telephone calls during the coming year. These services are provided through a network of offices which include a headquarters and 10 Regional Offices which oversee 6 Program Service Centers, 1,352 Field Offices, a Data Operations Center, 36 Teleservice Centers, 132 Hearing Offices, and the services of 54 federally-funded State Disability Determination Services.

Many serious challenges face the Agency and its programs, as has been pointed out by the U.S. General Accounting Office (GAO) and SSA's Office of the Inspector General (OIG). These challenges include Social Security's long-term solvency, Year 2000 system readiness and effective use of information technology, longstanding customer service problems resulting from ineffective workload management and inefficient processes in the Social Security and Supplemental Income Security (SSI) disability programs, insufficient systems security and controls, and risk of fraud--particularly regarding the SSI program.

In announcing the hearing, Chairman Bunning stated: "I continue to have grave concerns about SSA's Year 2000 readiness, about the quality of service being provided to those applying for and receiving disability benefits, and about how effectively SSA is using information technology to prepare for the onslaught of aging baby boomer disability and retirement claims. I also want to see how well SSA is using its expanded authority to function as an independent agency, now that it is about to complete its third year of operation under the law.

(MORE)

"In compliance with the requirements of the Government Performance and Results Act of 1993, last fall, SSA submitted their latest strategic plan. In that plan, SSA describes its mission as: 'To promote the economic security of the nation's people through compassionate and vigilant leadership in shaping and managing America's Social Security programs.' This hearing will give our Subcommittees the opportunity to hear how this Commissioner plans to ensure that SSA lives up to this lofty mission."

In announcing the hearing, Chairman Shaw stated: "The Human Resources Subcommittee has a keen interest in how SSA is administering the SSI program, especially the changes in the children's program resulting from the 1996 welfare reform law. It is important to follow closely how SSA is implementing legislative reforms designed to limit waste and abuse and to see whether they are having their intended effect. This hearing is a barometer of SSA's performance in implementing change."

FOCUS OF THE HEARING:

The Subcommittees will focus on the views of the Commissioner of SSA, and the findings of recent GAO and OIG reviews about the primary challenges facing the SSA and its programs.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record of the hearing should *submit at least six (6) single-space legal-size copies of their statement, along with an IBM compatible 3.5-inch diskette in ASCII DOS Text or WordPerfect 5.1 format only, with their name, address, and hearing date noted on a label*, by the close of business, Thursday, March 26, 1998, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Social Security office, room B-316 Rayburn House Office Building, at least one hour before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit 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 statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments. At the same time written statements are submitted to the Committee, witnesses are now requested to submit their statements on an IBM compatible 3.5-inch diskette in ASCII DOS Text or WordPerfect 5.1 format. **Witnesses are advised that the Committee will rely 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. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at "http://www.house.gov/ways_means/".

(MORE)



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.

Chairman BUNNING. The Subcommittee will come to order. I'd like to welcome those who will be testifying. Today we are especially pleased to welcome the Members of the Human Resources Subcommittee, as together we review the challenges facing the new Commissioner of Social Security.

Andy Jacobs, Barbara's predecessor, and I began working on separating the Social Security Administration from the Department of Health and Human Services soon after I was appointed to this subcommittee. Our efforts resulted in the enactment of Public Law 103-296 on August 14, 1994, finally making SSA an independent agency.

Congress recognized that Social Security is too important to the American people to be kept in the basement in HHS, or the subject of political gamesmanship. By making SSA independent, we made every effort to ensure that SSA is removed from politics.

We also intended that its management be based on good policy and sound financial principles, not on who sits in the White House or in the Speaker's chair. Congress depends on the expert advice of SSA's field managers, actuaries and policymakers to give us an accurate picture of what is happening with the program.

In a bipartisan fashion, we must make decisions that affect the lives of millions of Americans. Congress also relies on SSA to effectively implement the law of the land. We all know that Social Security will not be able to honor all of its benefit commitments in the year 2029. And the Social Security subcommittee, through its hearings series, is fully exploring options for Social Security reform.

However, this subcommittee has taken other actions which ultimately impact the long-term solvency of the Social Security trust funds. For example, we saved the Social Security trust funds \$1.9 billion. That's money saved to ensure the retirement security for our seniors when we stopped sending disability checks to addicts, and instead provided for treatment.

We have also authorized over \$4 billion over the 7-year period to ensure that individuals who are no longer disabled are removed from the Social Security disability rolls. Every one dollar spent on continuing disability reviews saved six dollars in Social Security trust funds.

These workloads must be given the priority attention they deserve by every agency employee. The regulations implementing the law must execute the clear intent of the law and must be adhered to.

Clear priorities, effective long-term planning and strong attentive management at the highest level is critical for SSA, as its challenge and demand for information from the public and Congress increase.

Congress provides SSA a substantial increase in its statutory authority to act independently beginning in March 1995. If SSA fully uses this authority, it has the ability to set its own direction, as well as having a majority role in deciding the future of Social Security.

Of course, SSA leadership will be the deciding factor in whether this occurs as Congress intended. After three years as an independent agency, SSA should be well on its way. We shall soon hear if that is the case.

In the interest of time, it is our practice to dispense with opening statements excepts from ranking Democrat member. All members are welcome to submit statements for the record, and I yield to Congressman Kennelly for any statement she wishes to make.

Mrs. KENNELLY. Thank you, Mr. Chairman.

Mr. Chairman, I am pleased to welcome today Social Security Commissioner Ken Apfel to discuss with us some of the challenges facing the Social Security Administration.

Since his confirmation last fall, the Commissioner has made excellent progress in meeting many of the challenges facing the agency. Using his experience as a former associate director of the Office of Management and Budget, he has taken an active role in the Social Security solvency debate, and is well placed to provide a strong voice, both inside and outside the administration, in the discussions about the future of Social Security which we are all so interested in.

In addition, under his leadership, the Social Security Administration is processing more continuing disability reviews more effectively than ever before. Based on hearings around the country, including my own town of Hartford, Connecticut, he has suspended the transmission of personal Social Security earning records over the Internet, and the agency is continuing to seek ways to make electronic information available to the public, while protecting the privacy and the security of personal records.

Under Commissioner Apfel's direction, the agency has provided the Congress with a strategic plan that is among the most highly rated in Federal agency plans. In addition, SSA is far ahead of other agencies in the conversion of its computers in preparation for the year 2000.

The agency has completed conversion of its central computers and is working with State Disability Determination agencies to prepare the State agency computer systems for the year 2000. I wonder, Commissioner, if we couldn't save some funds by spreading this information around to others who are nowhere near making the progress that you have made.

And all this work is in addition to the work the agency is doing to review childhood disability cases. Clearly, SSA, under the new commissioner, has done a good job in meeting its challenges. There are certainly many more challenges remaining.

However, backlogs of the Office of Hearings and Appeals continue to result in long delays for disabled applicants. Redesign of the Disability Determination process has been slow. And the suspense file of uncredited wages has not been pared back significantly.

I look forward to discussing these matters with the Commissioner and I welcome him here this morning.

Chairman BUNNING. Chairman Shaw and ranking member Levin have agreed that they will not make any opening statement in order that we may expedite the hearing.

First, we will hear from the Commissioner of the Social Security Administration, Mr. Kenneth Apfel.

Mr. Commissioner, would you begin, please.

**STATEMENT OF HON. KENNETH APFEL, COMMISSIONER OF
SOCIAL SECURITY**

Mr. APFEL. Thank you, Mr. Chairman.

I am submitting a formal statement for the record. I have a very abbreviated statement that may not have been provided to the table. If it hasn't, it will be.

Chairman BUNNING. Would you put your mike a little closer so we can hear you.

Mr. APFEL. I'm going to be providing a formal, lengthy written statement for the record, and I've got a brief statement that I hope you have copies of. I think it's being made right now, actually. So if you don't have it, you'll have it shortly.

So thank you, Chairman Bunning, Chairman Shaw, Mrs. Kennelly, Mr. Levin and the members of the subcommittees, for inviting me to testify before you today.

SSA is now approaching the end of its third year as an independent agency, and we're justifiably proud of our accomplishments, both as stewards of a public trust and of the programs that affect so many Americans' lives.

One of the primary benefits of our independent agency status is that it's given SSA greater visibility throughout the Government and within the Executive Branch in particular. And as the Commissioner of an independent SSA, I can and will provide the stable leadership that was one of the goals of the independent agency legislation.

Let me turn to the five priorities that I established upon being named Commissioner. The most immediate priority is ensuring the long-term solvency of the Social Security program.

During his State of the Union address, the President proposed that the projected budget surpluses be reserved until we address the program's long-range financing problem. He said that we must save Social Security first. Toward this end, he is calling for a year-long national dialogue on how we can best achieve this goal. At the end of the year, there will be a White House Conference on Social Security and early next year, bipartisan negotiations on Social Security reform will begin.

SSA will play a key role in this process. We are focusing our efforts on educating the public about Social Security today so that they will be better able to help determine the Social Security program of tomorrow. And I, as Commissioner, have been actively involved in discussions on policy matters since the day of my confirmation.

A second priority for SSA is assuring program integrity. Nothing is more important to me than maintaining the public trust in and the integrity of Social Security. SSA will forcefully exercise its responsibilities in this regard. Where we identify problem areas, we will develop plans to correct them.

A particular concern is the SSI program, which has been designated by the GAO as being at high risk. SSA is now at work assessing what corrective actions need to be taken in four areas of program concern: payment accuracy, continuing disability reviews, return to work and the entire disability determination process.

Since the SSA became an independent agency, one of the reasons we have been able to make major gains in assuring program integ-

riety and in fighting fraud and abuse is because the Administration has moved to strengthen IG capabilities.

If Congress approves the IG budget request for this year, the staff will have been increased by 80 percent since 1995. Related to program integrity is our ability to ensure the agency's systems capabilities with regard to the Year 2000 problem.

We fully expect to make SSA Year 2000 compliant by this December, a full year ahead of deadline. I would like to note that SSA's efforts in this area have been rated as one of the best in Government, both by OMB and by Congress.

My third priority for SSA is to guarantee equity for all claimants and beneficiaries. During my confirmation hearing, I pledged a top-to-bottom review of the implementation of recent changes in the SSI childhood disability provisions. I believe this review was needed because of public concerns about whether the new law and the regulations were being applied fairly.

The review basically found that SSA and the State agencies were doing a good job, but there were some problems. Where specific problems have been identified, I have ordered corrective actions. SSA is taking steps above and beyond normal administrative actions to ensure that every child receives a fair assessment of his or her eligibility for benefits.

I would also note that one of our initiatives for improving efforts to provide efficient and responsive program administration is our redesign of the disability process. I am concerned that it has taken SSA so long to accomplish this goal. I expect to be making some decisions to implement certain aspects of disability redesign nationally later this year. This is a very important priority.

In speaking about the disability program, I want to commend the spirit and intent of legislation introduced yesterday by Chairman Bunning and Congresswoman Kennelly. That proposal was designed to help individuals with disability return to productive employment, a goal shared by this administration, and the impetus for the Ticket to Independence Act that we transmitted to Congress last year. We will work with lawmakers on both sides of the aisle to realize this very important goal.

The last two priorities that I identified upon being named Commissioner involved improving internal agency processes. The first of these is strengthening SSA's long-range planning capability. SSA has been in the forefront of Government agencies in developing and implementing strategic management concepts.

Over the next decade, SSA will face its greatest administrative challenge yet, handling the dramatic growth in disability and retirement workloads that will occur as the baby boom generation ages.

For this reason, although the time frame for our current strategic plan is the next five years, I believe that we need to stretch our strategic planning horizon to 2010 and beyond.

Finally, SSA is working to improve its policymaking process. Research lies at the heart of this process and we intend to expand research on issues critical to Social Security. We are also undertaking initiatives to ensure the integration of research with policy development, to expand staffing in both of these areas and to increase interaction with various stakeholder groups.

In conclusion, let me say that I am committed to strengthening and protecting the Social Security programs that are now part of the fabric of American life. We have an obligation not only to strengthen the program's financial outlook in the 21st century, but to be responsible and careful stewards of our programs here and now.

We also face several challenges. As the Commissioner of an independent SSA, I accept those challenges. I look forward to working closely with the members of this committee on these very important endeavors.

Thank you, Mr. Chairman.

[The prepared statement follows:]

**SOCIAL SECURITY AS AN
INDEPENDENT AGENCY**

**HEARING BEFORE THE
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEES ON SOCIAL SECURITY
AND HUMAN RESOURCES**

U.S. HOUSE OF REPRESENTATIVES

MARCH 12, 1998



**STATEMENT BY
KENNETH S. APFEL
COMMISSIONER OF SOCIAL SECURITY**

Chairman Bunning, Chairman Shaw, and Members of the Subcommittees:

Thank you for your invitation to testify today concerning the challenges facing the Social Security Administration (SSA).

Today I would like to discuss SSA's stewardship as an independent agency in the Executive Branch of the public trust and of the programs which touch the lives of so many people. While I have been Commissioner for only five months, I have been very impressed with the commitment of SSA's employees and with how much has been accomplished in such a short time. We are now approaching the end of our third year as an independent agency, and we are justifiably proud of the accomplishments of our 65,000 employees (and the 15,000 State employees who carry out our programs in the State DDSs). Social Security is a fundamental part of American society, and every month, as it has for almost 60 years, we make accurate and timely payments to more than 48 million Americans.

On September 29, 1997, the day I was sworn in as Commissioner, I shared with all SSA employees the five areas that I see as the agency's immediate priorities and which I plan to focus on during my tenure: Addressing the long-term solvency of the program; Assuring program integrity; Providing responsive service and guaranteeing equity for all claimants and beneficiaries; Strengthening our long-range planning; and Improving our policy making process. Today I will discuss what we have done and plan to do to meet each of these challenges, but I would first like to begin with a brief discussion of SSA's status as an independent Agency.

SSA as an Independent Agency in the Executive Branch

When the President and Congress enacted legislation establishing SSA as an independent agency, one of the primary goals stated for doing so was to provide the agency with stable leadership. Congress was concerned by a high rate of turnover and the resulting instability that characterized SSA's top management in the years before SSA became independent. I am deeply honored to be the first confirmed Commissioner since enactment of that legislation to provide the sustained leadership that the Congress expects and the agency needs.

But what other advantages have flowed from this momentous legislation? Independent agency status has given SSA greater visibility throughout government as a whole and within the executive branch in particular. As Commissioner of Social Security, I consult directly with the President, Vice President, and other Cabinet officers, and issues related to Social Security are raised to the level of importance that they deserve. I attend Cabinet meetings, serve with the President's senior advisors on the Domestic Policy Council (DPC), and actively participate in the National Economic Council (NEC). In addition, I serve as a member of the President's Management Council. The independent agency legislation also provides that I serve as a member of both the Social Security and Medicare Boards of Trustees.

As you know, the DPC oversees development and implementation of the President's domestic policy initiatives and ensures coordination and communication among the heads of relevant Federal offices and agencies. The NEC coordinates the economic policy making process and provides economic policy advice to the President. The President's Management Council considers management issues that affect all executive branch agencies. My presence on these advisory bodies helps to assure that economic, policy and management issues that could affect Social Security are carefully considered within the Administration. In addition, SSA now works directly with OMB on budget and policy issues. The Commissioner's annual budget for SSA is submitted by the President to the Congress without revision, together with the President's annual budget for SSA.

But the independent agency legislation strengthened the agency in other ways. For example, the legislation called on the Office of Personnel Management (OPM) to provide SSA with a substantially greater number of slots in the Senior Executive Service (SES) than it had prior to its independence. I am pleased to report that the OPM has granted SSA an additional 34 SES positions, an increase of nearly 40 percent over the number that were available prior to independence.

The legislation that established SSA as an independent agency mandated the creation of a seven-member Advisory Board to make recommendations on policies and regulations relating to SSA's major programs. We are extremely fortunate to have the guidance of the Advisory Board, and I am pleased that SSA and the Board have established a cooperative and productive relationship. Reports issued by the Advisory Board concerning the need for an improved policy process, expanding our research efforts, and promoting public understanding of the programs have been valuable tools to improve our efforts in these areas.

SSA has also gained significantly by having its own Office of the Inspector General (IG). Our IG is extremely important in SSA's efforts to control program fraud and abuse. The IG's mission is to protect the integrity of SSA's programs. To strengthen its capacity to achieve this mission, SSA has significantly increased the resources available to the IG. When SSA was first established as an independent agency in March 1995, the IG's Office was relatively small. Since then, however, SSA has moved aggressively each year to increase the staff available to the IG. If the Congress approves the request made for the IG in the President's FY 1999 budget, the staff of SSA's IG will have increased 80 percent since 1995.

Social Security is inextricably linked with other executive branch agencies. It interacts with other agencies in the executive branch daily. The Treasury Department, the Office of Personnel Management, the Justice Department--all play an important role in assisting SSA in doing its business. Similarly, SSA assists other agencies in performing their duties. For example, SSA works with the Department of Health and Human Services in administering the Medicare program.

Addressing the Long-Term Solvency of the Program

I would now like to turn to a discussion of the first of the five priorities that I believe face SSA today. The long-term solvency of the Social Security system is the most urgent of our immediate priorities. As you know, President Clinton in his State of the Union address called for a national dialogue during the coming year to engage all Americans on this critically important issue. As an agency, we have a responsibility to make sure that information is available for people to understand the essentials of the program as we examine how best to strengthen Social Security for the future.

As President Clinton announced in his State of the Union message, we should not commit the projected budget surpluses for any other use until we have taken all necessary measures to strengthen the Social Security system. The President's message was simple and very clear: Save Social Security first.

The next step is to engage in a major national dialogue. President Clinton has called on the American Association of Retired Persons and the Concord Coalition to jointly hold a series of nonpartisan regional forums throughout the country on Social Security. The President, the Vice President, and members of the Cabinet will participate in these forums, as well as events organized by the Pew Charitable Trust. These forums and events will bring together a diverse group of experts and members of the public who share a concern about Social Security and will foster an open discussion about the challenges and options to consider.

The forums and events will give participants an opportunity to express their views and give the President and Congress a chance to hear those views. The first forum will be in Kansas City, Missouri, on April 7, and the first interactive video teleconference sponsored by the Pew Charitable Trust will be on March 21. The March 21 conference will link people in 10 cities and allow about 100 people to participate in each city. The Pew Charitable Trust plans to hold five additional meetings in April and May.

The President is encouraging all Americans to attend a Social Security conference or forum--or to organize or host one if there are not any planned nearby. We need the views of all Americans on this issue.

By the end of the year, the President will host a bipartisan White House conference on Social Security as a culmination of these events. This conference will be followed by bipartisan negotiations with the congressional leadership on how best to accomplish reform; to achieve, as President Clinton has said, "a landmark for our generation--a Social Security system that is strong in the 21st century."

During my first months as Commissioner, I have taken personally the President's call to ensure Social Security's solvency and enhance the public's understanding of our programs. I have been traveling around the country, speaking to senior citizens and college students and ages in

between, to encourage people to think about Social Security and its history and how we can prepare the program to meet the challenges of a retiring baby boom population.

SSA's public information outreach activities include an ongoing effort to educate the public about the need to save and plan for retirement. Our public education campaign is focused on ensuring that Americans have a clear understanding of the Social Security program of today so they can help shape the Social Security program of tomorrow. Our efforts in this area are consistent with the approach recommended by the Advisory Board in its recent report, "Increasing Public Understanding of Social Security." We recognize that we have a responsibility to increase the public's knowledge about our programs and to clearly communicate the benefits we provide, and we appreciate the Advisory Board's support of our efforts.

What do I want all Americans to understand about the program? I want all Americans to understand what Social Security has meant to older Americans. The plight of older Americans was once a disgrace. Now, Social Security provides them with an assured measure of economic security. It also provides many of them, and their children, the advantages that only living independently can offer.

I want all Americans to know that Social Security is more than a retirement program. I want younger people to know that not only will Social Security be there for them in the future, it is there for them NOW. How many people know that 1 out of every 3 Social Security beneficiaries is not a retiree but a disabled worker, or a member of his or her family, or a survivor of a worker who has died? They need to know that.

I want all Americans to know that Social Security was never intended to provide for all of a worker's retirement income needs. Pensions and personal savings have always been and should be part of a sound financial retirement plan.

I want all Americans to understand that the changing demographics of the country are the primary driver of the need for change. There is an unalterable dynamic at work: by 2030, there will be nearly twice as many older Americans as there are today, putting great strains on our retirement system.

I want all Americans to understand the economic facts about Social Security. Beginning in 2012, non-interest income will be insufficient to cover benefit payments. Beginning in 2019, the trust funds will start declining and, if no changes are made to the current program, will be exhausted by 2029. After the trust funds are exhausted, annual revenues will cover three-quarters of current-law benefits.

Finally, I want all Americans to understand one important fact: any option for change, however attractive, will require tradeoffs. Strengthening the Social Security system involves complex issues, and the advantages and disadvantages of each option for change will have to be discussed and examined.

As we begin this dialogue, we would do well to question whether changes to the program preserve and protect these important accomplishments: whether Social Security continues to be a benefit people can count on; whether the elderly, disabled, and survivors of workers are protected from financial hardship; whether the program is efficient; whether the program is universal and fair; and whether the program is maintained as a public trust. The dialogue about how we ensure the solvency of Social Security in the 21st century will need to include these critically important questions.

Assuring Program Integrity

The second immediate priority facing the Social Security Administration is ensuring the integrity of our programs. The public rightfully expects us to be vigilant stewards of their tax dollars. So I want to be clear that SSA must continue to improve the administration of its programs while continuing to have zero tolerance for fraud. The following are some areas where we are moving to improve the administration of the programs entrusted to us.

SSI High Risk

SSA is committed to improving the management of the Supplemental Security Income (SSI) program. The SSI program is demanding and complex, and we recognize that within some areas of the program we need to do better. We are evaluating ways in which we can simplify program administration, but one thing is clear: While there are some things we can do now to improve our performance, other changes will require a long-range, sustained effort. The Agency is committed to meeting this challenge.

As you know, the SSI program has been designated by the General Accounting Office as being at "high risk." The reason cited by GAO for this designation was that about \$1 billion in overpayments were made to SSI recipients in fiscal year (FY) 1996. Overpayments occur in the SSI program for a variety of reasons. Sometimes they occur because SSA does not have complete information regarding income and resources or because the information required for the determination of eligibility can only be estimated, as in the case of wages or other income that is anticipated to be earned or received in the future. In other cases it is because the beneficiary fails to understand the necessity of reporting a change that may affect eligibility. And sometimes they occur as a result of fraud.

Some of the overpayments are recovered through deductions from subsequent SSI payments. Given the diversity of reasons that overpayments occur, SSA is developing a comprehensive plan which will strengthen the management of the program and substantially reduce the overpayments made to SSI recipients. There are several dimensions to this plan. They are: to enhance the accuracy of payment determinations; fraud prevention; and developing a more robust SSI debt collection process.

First let me discuss plans to improve the accuracy of payment determinations.

One of SSA's primary goals is timely and accurate verification of financial eligibility. Expansion of data exchanges and increasing their frequency are critical elements for improving financial eligibility verification. Within a year, we will expand nationwide our current computer matching pilots to detect earnings and nursing home admissions of SSI recipients.

SSA is vigorously working to prevent overpayments before they occur by increasing the number of redeterminations of SSI eligibility SSA conducts. To accomplish this, the President's FY 1999 budget request includes \$50 million in new funding to increase the number of non-disability redeterminations of eligibility. If Congress provides these funds, they will allow SSA to increase our FY 1999 reviews of SSI cases from an estimated 1.8 million to 2.1 million. The increase of 268,000 redeterminations of eligibility would result in a projected net program savings of \$223 million over a 7-year period.

Return to Work

The President's FY 1998 and 1999 budgets both contained a proposal for a "Ticket to Independence," a customer-driven approach for helping our beneficiaries with disabilities obtain the services they need to return to work. As you know, Chairman Bunning and Representative Kennelly have developed legislation in this area, and I would like to thank them for their efforts on this important issue. We are particularly pleased that many elements of the President's proposal are contained in the bill that was introduced yesterday. We look forward to working with this Committee on this important issue in the months ahead. I am hopeful that, during this session, Congress will pass legislation needed to help Americans with disabilities participate in the workforce.

CDRs

Another way in which we ensure the integrity of the SSI program as well as the DI trust funds, is through continuing disability reviews (CDRs). During FY 1996, SSA processed roughly half a million periodic CDRs, with estimated lifetime savings (including Medicare and Medicaid) of nearly \$2.5 billion. Under President Clinton's leadership, SSA has processed more CDRs more cost-effectively than ever before. During FY 1997, we processed over 690,000 periodic CDRs, a 38 percent increase over 1996. In FY 1998, we expect to process over 1.2 million periodic CDRs, more than double number of CDRs in 1996. Our improved profiling/mailer process provides a high level of confidence in both our ability to achieve our estimated workload targets and in the accuracy and reliability of the decision resulting from our case reviews.

Our achievements in processing CDRs over the last two years demonstrate Congress' and the Administration's commitment to addressing this crucial workload, and I would like to take this opportunity to thank the members of the Subcommittees for their invaluable assistance in making the required additional resources available to us. Discretionary cap adjustments for additional funds have been authorized to enable SSA to become current in the processing of title II CDRs by FY 2000 and title XVI CDRs by 2002, and to stay current in the future. We are proud of our

recent accomplishments and are confident that our CDR strategy will lead to reliable and cost-effective monitoring of the disability rolls.

Debt Collection

A robust debt collection system is an essential element in strengthening the integrity of the SSI and Social Security programs. SSA has a long-standing commitment to debt management and we are continually engaged in projects that improve our performance.

In 1997 alone, SSA collected \$1.7 billion in debts owed to it. Of that total, \$1.2 billion was returned to the Social Security Trust Funds while about \$437 million in recovered SSI overpayments were returned to the Treasury's general fund.

SSA recovers more than 80 percent of the Social Security debt that it is owed when an individual remains on the benefit rolls, but is unable to match that performance when an individual leaves the benefit rolls. To enable SSA to strengthen SSI debt collections, the President's budget includes a provision that will help. This provision would authorize SSA to collect SSI overpayments from an individual's OASDI benefits. Nearly half of all uncollected SSI overpayments were paid to people currently receiving OASDI benefits. Although SSA currently may recoup SSI overpayments from current SSI benefits or recoup OASDI overpayments from OASDI benefits, SSA does not have the authority to collect an SSI overpayment from OASDI benefits in the absence of the beneficiary's express permission. This provision will significantly strengthen SSA's ability to recover SSI overpayments, and I would like to take this opportunity to request the assistance of all members of these Subcommittees to provide SSA with this important tool.

I want to make it clear, however, that the nature of SSI as a needs-based program must be taken into account in resolving any overpayment.

There is, as you know, a provision in SSI law which allows for waiver of overpayments. Generally, an overpayment will be waived when SSA determines that an individual was "without fault" in causing the overpayment and needs substantially all of his or her current income for ordinary and necessary living expenses. When waiver is appropriate and it has been requested, we will waive collection.

Now I would like to turn to measures we have developed to deter fraud.

Anti-Fraud Initiatives

As I mentioned earlier in my testimony, we have taken steps since SSA became independent to strengthen the IG. A strong IG, working together with SSA's employees in local offices, is the most effective means we have to control fraud and abuse in the programs we administer. The

efforts of the IG, with the help of referrals from SSA staff, have paid off in terms of both monetary savings and improved program integrity.

The IG's Office of Investigations in FY 1997 recovered over \$64 million in fines, judgments, and restitutions. Because the integrity of the Social Security number (SSN) is important to SSA's mission, the IG also vigorously pursues investigations of Social Security number (SSN) misuse, even though most of these allegations do not equate to immediate savings to programs administered by SSA.

In response to concerns raised by staff in SSA field offices along the U.S. border, SSA's IG implemented its Southwest Tactical Operations Plan (STOP) with a pilot in El Paso, Texas. The purpose of the pilot was to determine if individuals were fraudulently receiving SSI payments while living outside the United States.

The IG's efforts under the STOP pilot have been very successful. IG investigations have resulted in the suspension of benefits to about one-quarter of the individuals investigated. The projected 5-year savings stemming from these investigations is estimated to be about \$2.9 million. As a result of the success of this pilot, we are extending it to all border areas in the U.S.

Another area of vulnerability of the SSI program to fraud lies in claims taken from individuals who do not speak English. It has often been a common practice that such applications would be taken through the assistance of a "middleman" who would assist the individual in his or her dealings with the Government. However, cases came to our attention where the middlemen, who would serve as interpreters, were providing SSA with misleading or incomplete information.

SSA acted to reduce the SSI program's exposure to fraud of this type. We worked with the leadership of foreign language communities to promote trust and to help change some immigrants' belief that they need the services of a "middleman" when they conducted business with the Government. In addition, we increased substantially the number of employees in local offices who were bilingual to serve as interpreters in cases involving individuals who do not speak English. These measures have been highly successful in bolstering the accuracy of the information SSA has about claimants who do not speak English and has reduced the SSI program's vulnerability to this type of fraud.

Although we have been making significant strides in addressing fraud in the operations and programs of Social Security, we realize that there is a lot more to be done. Accordingly, SSA has established a National Anti-Fraud Committee, comprised of SSA's executive leadership, to oversee the implementation and coordination of SSA's national strategies to eliminate fraud. The National Anti-Fraud Committee is supported by ten regional committees comprised of regional executives who have the primary duty to oversee local policies and strategies to effectively combat, detect, and investigate potential fraud involving Social Security programs and employees. In addition, the Committee began hosting annual conferences in 1996 to focus attention on fraud and to provide an open forum for discussing issues, concerns, and solutions.

Systems Security

I want to make clear how important I believe it is that we maintain the confidentiality of the information in SSA's systems. Nothing is more important in operating our programs than ensuring that the public has confidence in us that the information placed in our trust is secure. We are constantly reevaluating and, when necessary, upgrading the security features necessary to provide that confidence.

This means that, using comprehensive systems controls, we carefully restrict data access within SSA to its intended use. Our employees are continuously reminded of their responsibilities to safeguard personal data and their use of SSA's data files, all of which contain sensitive personal information about the people we serve, and are carefully monitored to prevent any misuse.

Under SSA's access authorization process, only persons with a "need to know" in order to perform a particular job function are authorized to access SSA's data files. This process not only authorizes access, it also determines what a person can do once access is authorized. Additionally, persons who are approved for access are assigned a personal identification number and password by SSA security personnel. Once access to the system is authorized, the security software controls what the employee is allowed to do. Finally, SSA audits and monitors the actions individual employees take when using our systems.

SSA's response to the findings of a recent IG contract audit performed by Price Waterhouse reflects our commitment to continuous improvement. While I am pleased to report that the audit concluded that SSA's system of accounting and internal controls were in compliance with the internal control objectives issued by the Office of Management and Budget, the auditors identified five reportable conditions that needed management attention. We are moving ahead in these areas, and to date have resolved two of the five areas, and plan to resolve the remaining three as soon as possible.

Year 2000

I do not want to leave the subject of systems without a discussion of our Year 2000 efforts. Preparing for the year 2000 is unquestionably the biggest challenge the information technology industry has ever faced. In SSA, our national data center runs hundreds of systems that are supported by over 33 million lines of in-house computer code, as well as hundreds of vendor products. When SSA opens for business on January 3, 2000, everything that's operating in our data center to support SSA's business operations will have undergone Year 2000 renovation and testing.

We began to develop a strategy as early as 1989 to make sure that the payments we make to more than 48 million beneficiaries will not be in jeopardy. As of January 31, 1998, 88 percent of SSA's mission critical systems slated to be repaired are already Year 2000 compliant, and we expect to complete our work and test these changes by this December--a full year ahead of the deadline.

As you know, SSA relies extensively on data exchanges with other agencies, States, and employers to administer its programs. To assure continuity of administration, we must also make sure that Year 2000 problems do not impede our ability to conduct these data exchanges. We have been in contact with all of our data-trading partners regarding the format and schedule for making these data exchanges Year 2000 compliant and are working to implement them as well. Thus far, half are completed and we are working to implement the remaining half by this December.

In addition, SSA has assumed a large role in overseeing and managing the renovation of the systems used by the State Disability Determination Services (DDS). As of January 31, 1998, twelve DDS systems have been renovated, tested, and certified as being Year 2000 compliant. We expect that all of the DDSs will be compliant by the end of this year.

SSA is justifiably proud of its leadership among Government agencies in converting its massive computer systems to recognize a four-digit date at the turn of the century. SSA's achievements in this area have been rated as the best in Government, both by the Office of Management and Budget and the Congress.

Guaranteeing Equity for All Beneficiaries and Claimants

Another of the immediate priorities challenging SSA is providing responsive service and guaranteeing equity for all beneficiaries and claimants, including children.

SSI Children

When I became Commissioner last year, one of the first challenges I faced was to ensure that the new childhood disability standard established by Congress had been implemented fairly and accurately. So let me now turn to a discussion of that issue.

Over the past quarter century, SSI has helped families of children with disabilities meet their special needs. The SSI program has come to represent an important safety net to some of our most vulnerable families. That is why during my confirmation hearing before the Senate Finance Committee, I made a commitment to conduct a "top-to-bottom" review of the implementation of the changes to the SSI childhood disability program brought about by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. I believed that this review was needed because of public concern with the implementation of the new law. I believed that

the Congress, the President and the American people deserved to know whether the law and the regulations were being applied fairly.

The review showed that overall the Social Security Administration's (SSA's) and the State Disability Determination Services, which make disability determinations for the agency, have done a good job of implementing the review of the cases of those children who were affected by the changes in the law. Of the approximately one million children receiving SSI benefits based on disability, about 288,000 were subject to redetermination under the new law, and most of these cases were handled properly. However, the review also found some inconsistencies in the application of the rules and in compliance with SSA instructions. Where specific problems have been identified, I have directed that the agency take corrective actions. And, because of my concern for the welfare of children, a concern I know we all share, SSA is taking steps above and beyond normal actions to ensure that every child receives a fair assessment of his or her eligibility for benefits.

The review identified three specific areas of concern: processing of cases classified in SSA's records as having mental retardation; the quality of case processing in certain areas; and the adequacy of the information SSA was providing beneficiaries on their rights to appeal a cessation determination and to request that benefits be continued through the appellate decision.

When SSA published its interim childhood disability regulations in February 1997, we estimated that, of the approximately one million children receiving benefits, 135,000 would eventually be determined ineligible for SSI benefits after all appeals. Now that the redeterminations are mostly completed, and in view of the actions dictated by the findings of the review, the estimate has been revised downward to about 100,000 children who will lose eligibility after all appeals.

I am pleased to report that on February 18, 1998, we sent over 70,000 notices to families of children determined ineligible who may not have understood their rights to appeal the decision to terminate their benefits. Additionally, on March 10, we completed training for essentially all of our 15,000 adjudicators, including administrative law judges (ALJ), on childhood issues, such as mental retardation and evaluation of maladaptive behaviors, that were problematic in adjudicating these claims. This training was held in preparation for the completion of the rereviews. We expect to have the initial reviews completed by the end of this fiscal year. Where continuance accuracy was found to be below threshold, we will give childhood disability cases priority review.

Disability Redesign

Providing responsive service means that we administer our programs as efficiently as possible, and one of our projects for achieving this goal is our redesign of the disability process. I am concerned that it has taken SSA so long to accomplish this initiative and I expect to be making some decisions to implement certain aspects of disability redesign nationally in the near future.

I would like to mention three major components of disability redesign: process unification; an integrated disability computer system; and modifications to the disability claims process.

Our goal is to achieve similar results on similar cases at all stages of the process, through consistent application of laws, regulations, and rulings with minimal or no impact on program costs. I know that this subcommittee has long been interested in differences in adjudicative outcomes between our state adjudicators and the ALJs. In order to reduce these differences, we needed to minimize those factors, within our control, which contribute to the variance in allowance rates between the DDSs and the ALJs.

So far, we have seen an increase in initial and reconsideration allowance rates from fiscal year 1995 to fiscal year 1997, and a corresponding decrease in allowance rates at the hearing level. The ALJ allowance rate has decreased from about 65 percent in 1995 to 54.5 percent in 1997. At the same time, our quality remains high.

Based on our preliminary analysis, we appear to be making more correct decisions earlier in the process, serving our customers better, and cutting administrative costs without increasing program costs. If on further analysis, these conclusions hold up, we will be continuing our current activities in this area, as well as beginning new activities.

An important element of redesign is automating the initial claims process and integrating the 54 state DDS systems with each other and with the Federal system. The Redesigned Disability System (RDS) is envisioned to accomplish this goal.

Although we are currently testing an early release of RDS in Virginia and the Federal DDS, the software has not performed as we anticipated it would. Therefore, I have determined that the RDS be independently evaluated, and have ordered that a contract be awarded for this purpose. The contractor will conduct an evaluation and provide recommended options for how we might proceed. We are discussing this issue with the DDSs and the regions to ensure that the contractor addresses all of their concerns in its evaluation. I am looking forward to awarding this contract soon. It is important to remember that SSA and its partners in the States share a common goal in providing the best system affordable for processing disability claims. We all support this goal and are working together toward its achievement.

The third major component of redesign, modifications to the disability claims process to improve customer service and eliminate hand-offs, is now proceeding on a number of fronts. We are piloting many different variations of these modifications both singularly, and in combination in several States. These pilots will yield significant data on which I will base my decisions.

As a final note on this subject, I want to reemphasize the importance I have placed on pushing forward with the redesign activities. Although we do not expect the final product to be exactly the same as envisioned in the original plan, we do expect to build a process which will improve

the level of service we provide to claimants with disabilities from their initial contact with SSA through final administrative appeal.

EFT 99

One of the more immediate challenges facing SSA is implementation of the EFT99 provision of the Debt Collection Improvement Act of 1996. This provision requires all Federal payments, with the exception of tax refunds, to be made electronically by January 1, 1999. This will affect how benefits are delivered to more than 10,000,000 recipients of SSA benefits each month. SSA is working closely with the Treasury Department to identify reasonable and low cost methods of delivering benefits to the large portion of SSA check recipients who are unbanked. Working with Treasury, we are looking at a broad range of approaches to meeting this mandate, including increased use of direct deposit, low-cost electronic transfer accounts (ETA), electronic benefits transfer (EBT), and broad-based waivers for recipients for whom compliance with EFT99 would represent a hardship.

800 Number Service

In fiscal year 1997, the Social Security Administration served over 55 million individuals who called our 800 number, making it one of the largest toll-free service systems in the world. I am proud of SSA's achievements in providing prompt, accurate, and courteous service to the many Americans who use this service annually. It is especially gratifying that SSA's achievements in this area were recognized in 1995 by Dalbar Associates, an independent auditing agency, which rated SSA's toll-free telephone service as one of the best--compared to a number of private sector companies renowned for customer service.

Our commitment to providing world-class service is to achieve customer accessibility to SSA's 800 number as well as to provide accurate and courteous service. I am pleased to report that SSA's 800 number service met our fiscal year 1997 agency performance objective. That objective, which remains in place for FY 1998, is that 95 percent of the calling public will successfully access the 800 number within 5 minutes of their first attempt. In addition, the courtesy of SSA's 800 number representatives was rated high--at 98 percent--by the calling public. Response accuracy was maintained at 98 percent--that is, 98 percent of representative responses and transactions processed were free of beneficiary payment errors.

Using Technology

A key to our ability to manage our workloads now--and in the future--is to use technology extensively and imaginatively. The FY 1999 budget request supports our efforts to manage and expand our use of technology. At the time SSA became an independent agency, one of our first tasks was the implementation and distribution of Intelligent Workstation/Local Area Network (IWS/LAN) equipment to approximately 55,000 employees.

IWS/LAN will support many of our agency's future needs. It provides the infrastructure that allows for the redesign of our claims processes. In addition, it is the foundation for on-line "help" systems and state of the art interactive training that ensures SSA employees provide timely and accurate information to our customers. We began installing IWS/LAN in late 1996, and as of February 1998, we have installed almost 30,000 workstations on almost 800 LANs. Over 27,500 employees have been trained to use this new technology and hundreds of SSA employees have been trained to provide technical assistance to other employees. By the second quarter of 1999, we expect to have this equipment installed in all our field offices and other operations serving the public.

We expect that the current level of IWS/LAN technology will save 2,300 workyears annually by FY 2000. In addition, the technology will facilitate additional business process improvements to further reduce costs and improve service. Moreover, IWS/LAN serves as the business platform from which we plan to develop and launch additional systems initiatives to achieve further efficiencies that will strengthen SSA's ability to handle the work associated with the retirement of the baby boom generation.

Strengthening Long-Range Planning

SSA has accomplished much over the last decade in developing and implementing the concepts of strategic management that the Government Performance and Results Act of 1993 (GPRA) espouses. Our current strategic plan, *Keeping the Promise*, is the third plan our agency has produced, and has been recognized as one of the best plans in Government. Long recognizing that strategic planning does not end with the issuance of a plan, we also have established a system of strategic management that we continually have refined and improved over the years to help ensure that our strategic plans direct, and not merely reflect, the agency's priority-setting and decision-making process. And, as other government management reforms have been enacted, such as the Information Technology Management Reform Act, we have integrated these requirements into our agency strategic management system.

Another vehicle the agency uses to guide its planning is the Accountability Report. The Report presents financial, programmatic, and performance data to provide a comprehensive picture of how SSA uses its budgetary authority to maintain the public's trust. SSA was the first agency to issue an accountability report, and I am proud that SSA's strategic plan and accountability report have been given high marks by the Congress.

Over the next decade, SSA will face perhaps its greatest administrative challenge yet, handling the dramatic growth in workloads that will occur as the baby boomers reach their disability-prone years, and then retirement age. Although the time frame addressed by our current strategic plan is the next five years, through the year 2002, we need to stretch our strategic planning horizon much further out, to 2010 and beyond. We need to position the agency's resources and processes to accommodate these emerging workloads.

It will require that we think in a cohesive way about how we are going to look in 2010 and beyond, and what we should be doing now to work toward that vision. For example, what will be our future customer's service expectations and how will we meet them? How can we achieve the efficiencies needed to enable the agency to handle increasing workloads within the context of current budgetary resources?

At the same time that we must prepare for the retirement of the baby boom generation, SSA is planning to meet a retirement wave of its own employees. A January 1998 study showed that SSA faces a potentially significant loss of knowledge and experience over the next 5 years, when over 80 percent of all SSA employees Grade 13 and above will be eligible for optional and early retirement. This will present challenges but it will also provide opportunities.

To ensure that SSA remains a world class organization, we are aggressively planning for future leadership. We are working to provide the necessary tools and training to achieve a highly skilled, high-performing, and diverse workforce, one that will serve SSA's diverse customers in the 21st century. We will continue to provide ongoing training to all employees based on the needs and skills of those employees. In addition, we have assessed the strength of our management cadre and have undertaken new initiatives, including implementing national management career development programs from entry level to SES, the accelerated hiring of Presidential Management Interns, and the establishment of a revitalized competency-based management curriculum.

Improving Our Policy Making Process

Since becoming an independent agency, SSA has taken a number of steps to strengthen the research and policy development capability needed to respond to critical issues faced by its programs, and we will continue to pursue efforts to strengthen policy development at SSA in the years ahead. SSA's policy staff serves as an agency catalyst for innovative research and policy development, supplementing core staff with consultants, Intergovernmental Personnel Act assignments, contracts and grants.

SSA has pursued several means of building our research capacity. A streamlined, simplified mechanism was instituted at SSA last year that facilitates awarding contracts for research. Under this mechanism, four firms are under contract to SSA for a five-year period, making them available without having to award a specific contract for a single research project. Instead, these firms conduct policy evaluation work through a much-expedited task order process.

Looking to the future, SSA plans to expand research on issues critical to Social Security, through a Retirement Research Consortium which should be in place by the end of FY 1998. This consortium will initially involve two university-based multi-disciplinary centers that, under contract with SSA, will plan and conduct a broad research program, facilitate data sharing for research, disseminate knowledge broadly, and provide training to SSA employees involved in research endeavors.

SSA's research budget allocation is nearly \$49 million in FY 1998 (of which about \$17 million is new money and the remainder carried over from previous years); the President's budget has requested \$30 million for FY 1999. The major areas toward which our research will be targeted include solvency research (retirement policy research and disability growth), rehabilitation/return-to-work, and policy evaluation.

The Disability Evaluation Study (DES) is a national survey designed to understand recent growth in the disability programs, as well as potential future growth. By screening a nationally representative sample of adults, including not only survey questions but also reviews of medical records and medical examinations, we will be able to estimate how many adults meet our definition of disability, regardless of income or work status, and better understand what enables individuals who are disabled to remain in the workforce. This research will help us design a better disability decision methodology, while understanding what impact any changes would have on people with disabilities.

Other initiatives include development of ways to provide for better interaction with the various stakeholders in the policy process and the development of policy integration initiatives to ensure that policy development is organized and consistent, not only within the agency, but also across the other Federal programs which serve the same populations. This process is also designed to ensure the integration of research with policy development. To facilitate the interaction among policy developers and policy users within SSA, groupware applications have been developed and are currently being tested. This technology will allow policy users to weigh in on policy proposals as they are being developed and will also facilitate the interpretation of policy instructions after policies are implemented.

Conclusion

Throughout its 60-year history, Social Security has made a difference in the lives of Americans, young and old. We have an obligation not only to strengthen the program's financial outlook in the 21st century, but to be responsible and careful stewards of our programs in the here and now. Ultimately, our efforts will be judged on whether we have protected and strengthened Social Security. As Commissioner, I accept this challenge. We have ambitious goals and we will do everything we can to achieve them. As we move SSA into the 21st century, I look forward to working closely with the members of this Committee in that spirit on this important endeavor.

Chairman BUNNING. Thank you, Mr. Commissioner. I will start off with the questioning, and I am going to take the 5 minutes just like everybody else so that we can get through the many members here today.

First of all, I was pleased to hear you discuss the many advantages of SSA being an independent agency. You discussed your personal involvement in meetings at the White House, serving on the Domestic Policy Council and the National Economic Council, to name a few.

However, how independent are you in making decisions that affect your agency? What role does OMB play in the development of SSA legislation, policy and budget?

Mr. APFEL. Well, the independent agency legislation, which was a very important piece of legislation, created the Social Security Administration and the Commissioner with greater visibility, greater accountability and clearly more stable leadership, which I think are all very important elements.

The Social Security Administration remains an Executive Branch agency. However, the six-year term established for the Social Security Commissioner provides what I believe is the measured independence and authority within the agency—

Chairman BUNNING. Please just answer, because I only have 5 minutes, please answer the question. How much—what role does OMB play in the development of SSA legislation, policy and the budget?

Mr. APFEL. I was answering the question, Mr. Chairman. The legislation, as I said, did not create a fourth branch of Government. It created Social Security and its independent Commissioner as a part of the Executive Branch. Do we still deal with the Office of Management and Budget for budget formulation and for legislative proposals? Yes. That will continue, as it always has.

We have an integrated responsibility throughout Government. I am a managing trustee of the Social Security and Medicare trust funds. If we look at, say, SES allocations, does the Social Security Commissioner determine independently how many SES staff it has? The answer would be no.

Chairman BUNNING. Let me ask you some follow-ups, because you answered my question.

Did OMB review your testimony before it was finalized today? What changes did they ask you to make, and did you make any changes?

Mr. APFEL. Actually, the answer is yes, there were some very minor changes that were made.

Chairman BUNNING. So OMB did request that you make changes in your testimony before today?

Mr. APFEL. Absolutely.

Chairman BUNNING. Okay. Why did you choose to continue to submit virtually everything SSA to OMB for review, and by law, you are not required to do it.

Mr. APFEL. The Social Security Administration remains an Executive branch agency.

Chairman BUNNING. No, by law. The law that we made in 1994 gave you permission not to consult with OMB. That you would be

in charge of the Social Security Administration. Now, please answer the question.

By law, you are not required to do it, so why do you do it?

Mr. APFEL. Mr. Chairman, I am responsible for the Social Security Administration. I am the Commissioner. I am also part of the Federal Government. I have a direct responsibility to report—

Chairman BUNNING. So am I, but I don't consult with OMB and the White House.

Mr. APFEL. You're not an Executive Branch agency. The reality is I have a direct reporting relationship to the President of the United States. The Office of Management and Budget has responsibilities to oversee integrative activities throughout Government. There are many things that—

Chairman BUNNING. Your budget can be what you want it to be. My request of the Congress—

Mr. APFEL. Mr. Chairman, I would point out that the legislation did specify that when the President submits his budget, the Commissioner's budget is submitted at that same time, and that was completed in this year's budget request.

Chairman BUNNING. That's correct, so you could come directly to the Congress and ask for whatever you choose to ask for, without submitting your budget to OMB.

Mr. APFEL. And Mr. Chairman, the President submitted my budget.

Chairman BUNNING. Why would we make you an independent agency if we thought you were going to submit everything to OMB for approval?

Mr. APFEL. The President's budget includes my budget request and it includes the President's budget request, consistent with the Federal law. It's appropriate, it's an important activity on both counts.

Chairman BUNNING. We want you to be independent. We think it's important for you to be independent of the White House, of HHS and everything else, so that we can have a relationship between the Congress and Social Security that is in the best interests of the recipients and those who are paying into the system.

And if you're going to continue to submit everything to OMB, we're not going to have a good relationship.

Mr. APFEL. Well, Mr. Chairman, I intend to submit testimonies to OMB. I think it's my responsibility as the Commissioner of Social Security and as the head of—

Chairman BUNNING. Well, then you're not an independent agency under the law.

Mr. APFEL. The legislation created Social Security as an independent agency.

Chairman BUNNING. No, the law—I helped write the law, so please, if you want to get some experts up here to interpret what's in the law, we'll be glad to argue with you about it. But the law does not require you to submit anything to OMB. Your independent agency law does not require that.

Mr. APFEL. The legislative history, Mr. Chairman, had a House version—

Chairman BUNNING. Legislative history, I am familiar with that, also.

Mr. APFEL. As I am, too, sir.

Chairman BUNNING. Oh, you were involved in writing the law? And the legislative history of writing it?

Mr. APFEL. No, but I have read it pretty carefully.

Chairman BUNNING. All right. Mrs. Kennelly.

Mrs. KENNELLY. Thank you, Mr. Chairman.

Commissioner, take a deep breath. You can use two of my minutes to respond to the question so you can get your answer on the record fully.

Mr. APFEL. I would say that the independent agency legislation, I believe, created the appropriate balance in creating an independent Social Security Administration outside of the entity of the Department of Health and Human Services, as a free-standing agency within the Executive Branch; with a six-year term for the Commissioner, who serves, unlike many other Cabinet-level appointments, not at the pleasure of the President, once confirmed by the Senate, but as an Executive Branch agency, clearly subordinate to the President.

I believe that the balance established was appropriate. The creation of the Social Security Advisory Board, a bipartisan advisory board, to consult with the Commissioner was appropriate, helpful and very positive. So I am very pleased with the relationship that's been established. I believe it's appropriate for the American public, and I believe it's important for the Government.

Mrs. KENNELLY. Thank you. Commissioner, some people in my district and people in Washington have contacted me about the administration's proposal to assess a fee on the attorney when SSA withholds payment for the attorney from the claimant's award of past due benefits, which we know has been standard procedure until now. People have argued that this fee will ultimately fall on the beneficiary. Can you comment?

And the second question is some attorneys have suggested that if SSA is going to collect a fee, SSA ought to process the payment to the attorney within 45 days of the award notice.

Could you comment on these ideas?

Mr. APFEL. We did submit a legislative proposal yesterday to the Congress to impose a user fee on attorneys who represent clients through the disability system.

Mrs. KENNELLY. How much was that?

Mr. APFEL. Well, it would be about \$165 per case, which is the cost to the Social Security Administration for processing these activities. We believe this is appropriate compensation for the services we provide.

Two, will these fees fall on beneficiaries? Well, as you know, Mrs. Kennelly, there is a limit on the amount that attorneys can collect from the past-due benefits and many of those claims are at the maximum amount. This \$165 could not be shifted over to beneficiaries.

I have discussed this matter with some of the organizations involved. They have concerns about the fee. They also have concerns about the Social Security Administration's ability to deliver services on a prompt basis.

I think they've got a good point on our ability to provide their payments promptly. Therefore, I would like to consider that we

would work together to find ways to first, establish a fee, but second, also to expedite ways that we can ensure that prompt payments are received by attorneys for this activity. So I think their second point has some real merit.

Mrs. KENNELLY. Commissioner, it's not the large cases or the maximum cases that I'm concerned about. What I'm concerned about is the attorney that has the smaller cases. As you know, low-income individuals have a hard time affording an attorney. If each case would cost an additional \$165 up front for the attorney, the affordability issue may get worse.

My concern is that this will keep people from wanting to represent people who need the services desperately because they are in a desperate situation. So I hope you will continue to discuss this before we get to a fee of \$165.

Mr. APFEL. We will, Mrs. Kennelly. I think that as budget resources become increasingly constrained, finding ways to establish user fees is one of the important things that we should look at.

I think this is one that, for a relatively modest fee, will not significantly reduce the number of attorneys representing claimants. But that's what this debate is about, and we'd be willing to talk to you about that this year.

Mrs. KENNELLY. Thank you, because I have additional thoughts on it, and I will make an appointment to talk with you about this further.

Mr. APFEL. Very good.

Mrs. KENNELLY. Thank you, Mr. Chairman.

Chairman BUNNING. Mr. Shaw.

Chairman SHAW. Thank you, Mr. Chairman. Commissioner, I'm glad that in your opening statement you make reference to the probably most heralded statement in the State of the Union address—that we will save Social Security first.

After the President said that, we all leaped to our feet and applauded. It was the most-applauded line of the evening. However, I cannot detect, in either the President's speech following or before that remark, nor in the budget that he submitted, that his budget is matching his rhetoric.

Can you tell me what the President has done in his budget submitted to Congress to save Social Security first?

Mr. APFEL. I'd be more than happy to, Mr. Chairman. The President, in his budget and in his State of the Union address, indicated that we should reserve the surpluses pending Social Security reform.

That does not necessarily mean that every dollar of surplus would be provided to the Social Security programs.

Chairman SHAW. What did it mean?

Mr. APFEL. What it meant was that all dollars, all surplus, every dollar of surplus would be reserved pending action on the Social Security reform effort. In the meantime, the Congressional Budget Office has projected a potential surplus for even this year for the first time.

The effect of that would be for those dollars to draw down the debt, to reduce the overall national debt in the short term, which is—

Chairman SHAW. Let me interrupt you here. I'm a little bit confused. First of all, I think it's important to realize what creates a surplus. It's the budget. If you don't have a surplus, then you don't follow through on it. If you come up with new programs, new spending programs or tax cuts, you can eliminate the surplus, and there's never a surplus so you never have to deal with save Social Security first. Am I correct on that?

Mr. APFEL. I didn't quite follow it. But I know, Mr. Shaw, that you've introduced, or are considering legislation to create some form of a mechanism to reserve those surpluses in some capacity. I know that Mr.—

Chairman SHAW. Let me follow up so you can see exactly where I'm going with this.

The law, as I thought we had enacted it, took Social Security off of the unified budget. Now, it doesn't appear that anybody around here, either in the House or in the White House, is following through on this.

Now, if you take Social Security out of the unified budget, there'd be a large deficit. That deficit would be somewhere in the neighborhood of what, \$70 billion?

Mr. APFEL. In that vicinity.

Chairman SHAW. So it appears to me that if we're going to follow through on what the President said of saving Social Security first, as we applauded the President, then the logical way to save Social Security is to take it out of the unified budget, get some honesty in accounting and say, hey, we still have a \$70 billion deficit.

And I want the record to reflect that you just shook your head, yes.

Mr. APFEL. Well, let me say, Mr. Chairman, that it's clear that the Social Security surplus is \$80, \$90, almost \$100 billion this year, and the non-Social Security deficit is still \$70, \$80, \$90 billion—we understand those.

And the unified budget still requires that Social Security surpluses be included within the unified budget structure, although it is within other formulations in an off-budget formulation.

Chairman SHAW. That's arguable.

Mr. APFEL. That is one of the questions that should be debated this year, with the surpluses reserved; what is the budgetary treatment of Social Security? It's a legitimate issue that needs to be discussed as part of a Social Security reform endeavor.

Chairman SHAW. I would say that it is dishonest and it is outrageous that either the Congress or the administration would use the Social Security system to mask a huge deficit that is still with us.

And I think if somebody is going to get up and say, "We want to save Social Security first," that they have an obligation to send an honest budget to Congress in which the Social Security surplus is not used in order to hide a huge Federal deficit that is still with us.

Mr. APFEL. Mr. Chairman—

Chairman SHAW. That money is committed, and as a matter of fact, we're short that money anyway. So it seems to me that the White House and the Congress should join hands and say we're not going to do that anymore. We need to get rid of the real deficit,

which is still very much with us; and we need to no longer use the Social Security surplus to hide what really is a \$70 billion deficit.

Mr. APFEL. Mr. Chairman, in 1993 the non-Social Security deficit was nearly six percent of GDP. It's now down around one percent of GDP. There's been remarkable progress made, at least in part, on a bipartisan basis on deficit reduction and also economic growth. There have been amazing improvements here.

What the President said a year and a half ago in the State of the Union address was let's balance the budget first—and that was a very important endeavor—and then move on to the generational issues of our day.

What he said in this State of the Union address is we have now balanced the budget and we are projecting very modest surpluses in the future; let's reserve those surpluses, let's not spend them away, drain them for any other activities until we've addressed what to do about the long-term future of the Social Security system. And then determine what to do about any other surpluses that exist.

Chairman SHAW. My time has expired, but I just want to say that the best spin master in the world cannot refute the fact that we are still using Social Security surpluses to balance the budget, and that is wrong.

Thank you, Mr. Chairman.

Chairman BUNNING. Mr. Levin.

Mr. LEVIN. That was, Mr. Shaw, an interesting discussion, and I think the President said in his State of the Union that without Social Security there would be a deficit, and that's why we should not spend any surplus until the Social Security issue is straightened out.

Mr. APFEL. That's correct, sir.

Mr. LEVIN. And saving Social Security first is even more important, because without the surplus, we would still have a deficit.

But anyway, I want to go back to Mr. Bunning's question, because I don't quite understand the dynamic here. You submitted a separate SSA budget, is that correct?

Mr. APFEL. The President did on our behalf, yes.

Mr. LEVIN. Right. But you submitted it to the White House. You transmitted it, I should say. And then the President, in his own budget, did he have a separate provision for SSA?

Mr. APFEL. Yes, the President submits—

Mr. LEVIN. So essentially, you presented a separate budget from the President. The law requires that he transmit what you transmitted to him as a separate document, right?

Mr. APFEL. Not as a separate document, as part of his overall budget. The budget allocations that I proposed to him are included in the President's budget as a separate account.

Mr. LEVIN. Now, is what the President presented relative to SSA identical to what is in the document that was transmitted from you through the President's communication to us?

Mr. APFEL. No. The Commissioner's budget, my budget, was about \$250 million higher in spending than the allocations that the President provided in his budget for Social Security.

Mr. LEVIN. So I don't see how anyone can argue that you haven't followed the purpose of your independence. You said to us, you have a request higher than the President, right?

Mr. APFEL. Yes.

Mr. LEVIN. In terms of your communications with the executive department, the President still has the veto power over what we appropriate for SSA, right?

Mr. APFEL. Yes, sir, as part of the Labor HHS appropriations bill.

Mr. LEVIN. So if he doesn't like what we appropriate for SSA, he could use that as a reason for vetoing the Labor HHS bill.

Mr. APFEL. Yes, sir.

Chairman BUNNING. Mr. Levin, would you yield?

Mr. LEVIN. Sure.

Chairman BUNNING. So we don't get lost in the formality of this, the Social Security Administration, under the Independent Agency Law, is entitled to submit directly to the Congress of the United States their own budget without going through OMB. That's what the law says; that is not what is being practiced.

Mr. LEVIN. I'm not sure the law says there shall be no consultation.

Chairman BUNNING. I didn't say that. I said if there is a difference, we should see the difference. How can they be an independent agency if we don't see the difference between what OMB finally submits through the President on their behalf and as—

Mr. APFEL. Mr. Chairman.

Mr. LEVIN. That's exactly what happened.

Mr. APFEL. The law specifies that when the President submits his budget request, included within that would be the budget requested by the Commissioner for the Social Security Administration.

The President's budget request includes his government-wide appropriations estimates, including blank amount of money for the Social Security Administration. My budget request is also included. It is about \$250 million higher. They are both included and transmitted to the Congress as part of the President's budget request.

Mr. LEVIN. Mr. Bunning, that's exactly what happened.

Chairman BUNNING. We'll follow up on my own time. Thank you.

Mr. LEVIN. All right. But Mr. Apfel is saying that what he submitted is different than the President suggested to us, so we have in front of us the President's position and Mr. Apfel's position.

Mr. APFEL. That's correct.

Mr. LEVIN. Thank you.

Chairman BUNNING. Mr. Hayworth. He's not here. Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman. I want to change directions a little bit and inquire about a particular area. I understand that the IG is increasing its audit work in the Office of Hearings and Appeals. I just want to ask what you and your office may be doing in this area.

I understand that attorney fees in particular are very lucrative in this particular area, and that our Office of Hearings and Appeals or ALJ's have to collect those fees. The concern is that many of these attorneys come to court ill-prepared for the hearing. There

appear to be no standards for these attorneys to be prepared for the hearing.

If they're ill-prepared, then it falls on the ALJ's to actually do the research and prepare the cases. And the ALJ's have no contempt authority. There is no required pre-hearing submission of information. I understand there is a local rule that would allow a five-day pre-hearing submission, but there's no authority to enforce it.

Many of our ALJ's have no assistant. Several have had to buy their own computers. And this is an area where there is a tremendous backlog. The disability area accounts for 10 percent of the cases we have now in Social Security, and that's projected to increase to 20 percent over the next five years.

What have you done in this area? What have you done to look at this particular area since you have become the new administrator?

Mr. APFEL. Well, Mr. Chairman, this is one of the larger problem areas that we have, there's no doubt about it. Backlogs are serious, they are real. I'd like to talk about two or three different things.

One is that we do expect to see those backlogs significantly reduced in the course through 1999. We've hired about 250 to 300 additional judges, bringing us up to about 1,100 ALJ's now. So, we have put investments in this area, which I think are appropriate. Congress has supported that, and we're pleased.

This is an area that we needed to build up more of our resources, but that, in and of itself, is not going to be the long-term story. What we need are some significant reengineered systems there with ALJ's, the Office of Hearings and Appeals, as well as the State DDSs, in terms of creating a more unified process, as well as trying to streamline the process.

What I would like to see is that by the time the case lands on the desk of the ALJ, that there is a much more solid rationale at lower levels about why the decisions were made the way they were.

Now, when it comes to the actual lawyer coming in the door and if that lawyer is ill-prepared, which is a point you brought up here, those hearings are de novo hearings, and I think that's probably appropriate. I think the ALJ ought to be able to have all the information provided on that case the day that that case is presented. If there's an area that needs more information getting that information, I think, makes good sense.

But what I think the ALJ needs is a more solid justification about why these State DDSs have determined the case the way they did, so that there is a more consistent understanding of what the ground rules are. I think that would have the tendency—

Mr. COLLINS. My time is going to run out. But you understand this is a problem area.

Mr. APFEL. Absolutely.

Mr. COLLINS. Okay. You've been on the job now since the end of September of 1997, and you understand this is a problem area. What have you specifically done to assist in this particular area for lawyers who come to court, come to the hearing rather, ill-prepared and there's no contempt authority, there's no authority for the ALJ's to actually reduce those lucrative fees for those ill-prepared lawyers.

Have you done anything? Are you going to do anything? When are you going to do it? This is an area that is backlogging those who are applying for those benefits and many who deserve those benefits, and this is where a decision has to be made.

What are you going to do in the very near future to correct these bad problems?

Mr. APFEL. Well, as I said, sir, we intend to streamline the process.

Mr. COLLINS. When?

Mr. APFEL. There are a whole series of pilots that are underway to try to figure out how to move the process, to speed it up, to unify, so that we have a better consistency of application of rules between the ALJs and the State DDSs.

On the specific issue that you mentioned, which I had not heard of, which is whether we should create contempt rules for attorneys that come in ill-prepared, I will look at this issue, but it's the first I've heard of this one, sir.

[The following was subsequently received:]

Currently, SSA can bring proceedings to suspend or disqualify a person from acting as a representative in dealings with SSA if it appears that the individual has violated SSA's rules governing representatives. Additionally, if an Administrative Law Judge (ALJ) believes that there is relevant and material evidence available which has not been presented at the hearing, the ALJ can adjourn the hearing or, at any time prior to the mailing of the decision notice to the claimant, reopen the hearing for the receipt of such evidence.

SSA has also published a Notice of Proposed Rulemaking (NPRM) which expands SSA's rules governing representatives. These regulations will protect the claimant and the process from those representatives who are incapable of providing or unwilling to provide meaningful assistance in expeditiously resolving pending claims. Representatives will be required to demonstrate by their performance that they have a working knowledge of the programs for which they wish to provide representational services. SSA will be authorized to bring an action to disqualify or suspend a person who does not meet our qualifications for a representative or who violates SSA's rules and standards governing representatives in their dealing with SSA.

Chairman BUNNING. The gentleman's time has expired.

Mr. COLLINS. Well, it's not the first time I have mentioned it, it's not the first time I've heard of it. I've heard it from several people at ALJs. Thank you.

Chairman BUNNING. Okay. Mr. McCrery will inquire.

Mr. MCCRERY. Thank you, Mr. Chairman. Mr. Apfel, welcome. I'd like to engage in some of these other topics. They're very interesting, but I want to concentrate my questions on the SSI program, particularly the SSI for children program. And I may want to submit some more questions to you in writing, if that's okay.

Mr. APFEL. That's great.

Mr. MCCRERY. Just following up quickly, though, on the ALJ question, do you know, off the top of your head, what percentage of Disability Determination Services decisions are overturned by administrative law judges?

Mr. APFEL. It's on the order—the overturn rate is about 60 percent. I'll get you that exact number for the record, sir. There are many reasons for that—

[The following was subsequently received:]

The hearing level allowance rate in fiscal year 1997 was 54.5 percent.

Mr. MCCRERY. Okay. It just seems high, doesn't it?

Mr. APFEL. There are a number of reasons for that. Partly it is a question as to whether that individual has become more disabled; that's issue number one.

Issue number two is: There's clearly different evidence provided at that stage than at the earlier stages. There's more information provided on the individual's case record so it's a fuller picture of the extent of disability.

Three, because of attorneys and because of other sources of support, there is a significant amount of clarification of the record so the ALJ is looking at a more accurate picture, overall.

But, at the same time, ultimately, what we've got to do as an organization—and I believe this strongly—is find ways to reduce the allowance rates at the ALJ levels, as well as increase the rates of approvals at the DDS levels. What I believe we've got to be able to do is have a more unified system so that people do not necessarily feel that they have to appeal time and time again, that the decisions are correct at the front end.

So, ultimately, one of the ways to improve our system is to see that there is a more unified approach with higher approvals at the front end, lower approvals and overturns at the latter end—more legitimacy for the overall appeals process, which I think we need to have. We don't have it right now.

It's one of the goals of the organization, it's one of my strong goals. I believe we've got to do more in this area. It's not going to be easy; I would love to say that within 3 months the whole thing will be corrected. It will not be, but it's something I want to work on a lot, and we will get better.

Mr. MCCRERY. Well, I'm told by staff that the error rate is closer to 70 percent than 60 percent, either way it's very high, and I find it hard to accept that a 60 to 70 percent overturn rate can be explained away by the simple statement that there's more evidence presented at that level.

Supposedly, when the determination is made by DDS, they have all the medical evidence that would support a finding of disability. And I know from that point until the ALJ, the claimant is asked to gather more evidence, go back to the doctor, get a clearer statement—all those things which can lead to a different determination, but 60 to 70 percent seems to me to be very, very high, and not explained simply by more evidence being presented.

So I would just urge you—I think you're right to try to reach a point where there is more uniformity in the decisions at the DDS level and ALJ level, but I would urge you not to concentrate solely on the DDS level, but maybe look at the ALJ level. I think the ALJs are lawyers, too, aren't they? The ALJs generally are lawyers?

Mr. APFEL. Yes they are.

Mr. MCCRERY. And then there are lawyers appearing before those lawyers. So, I wish you'd look at both ends of that.

Mr. APFEL. And, sir, we will. The—

Mr. MCCRERY. Let me just get in one more thing because I do want to get some questions to you in writing, as well.

Let's talk about SSI for children real quickly. Do you recall when the legislation was perfected here in the House—not perfected, but introduced and passed through the Ways and Means Committee,

and CBO presented an estimate of how many children would be removed from the rolls. Do you remember that estimate?

Mr. APFEL. On the House-passed version, or——

Mr. MCCRERY. Yes. Well, I'll take that, the House-passed version. It's about 185,000.

Mr. APFEL. Well, actually, the final conference language was about 185,000.

Mr. MCCRERY. Yes.

Mr. APFEL. Yes, sir.

Mr. MCCRERY. Yes, about——

Mr. APFEL. 185,000 was the number that CBO, on the final legislation, estimated as to how many children would be——

Mr. MCCRERY. 185,000.

Mr. APFEL. They had a range in their estimate. Their midpoint estimate was 185,000 they had a significant range around that.

Mr. MCCRERY. Well, yes, but 185,000 was the midpoint. Now, when Social Security Administration released its regulations on the program, what was the estimate then—of children who would be removed from rolls?

Mr. APFEL. 135,000.

Mr. MCCRERY. 135,000. So, for some reason, from the time that the legislation was adopted to the time that SSA regulations came out, we lost 50,000, an estimate of 50,000 children that would be removed from the rolls. Now, since that time, you have a done a top-to-bottom review and you now are estimating how many children will be removed from the rolls?

Mr. APFEL. After all appeals, about 100,000.

Mr. MCCRERY. 100,000. Now, Mr. Apfel, considering that history of estimates of children to be removed from the rolls, as a result of legislative action and regulations written by your administration, how do you respond to critics, perhaps in the Senate, who tell you that your regulations are too harsh and they don't carry out the intent of the legislation that was passed by Congress?

Mr. APFEL. Well, Mr. Chairman, the top-to-bottom review was aimed at ensuring that we were going the extra mile to give every child the best possible review——

Mr. MCCRERY. And I applaud you for that.

Mr. APFEL. And I know you did, and I thank you for that, sir. It is true that the estimates have come down some in terms of the number of children——

Mr. MCCRERY. Some is an understatement.

Mr. APFEL. The 135,000 to 100,000 is significant but it is real. There are some, as you know, in the Senate who believe that the regulations are still overly strict and I'll probably be testifying in about a week-and-a-half on that.

Mr. MCCRERY. Yes, I'm asking how you respond to those.

Mr. APFEL. Well, I haven't quite figured out how to respond when asked for a hearing a week-and-a-half from now, but what I would say, sir, is that the interim regulations were the best assessment of congressional intent at that time, which the General Accounting Office, when it reviewed the regulations, considered to be generally consistent with law. Now, we don't have the final regulations out yet, that's a long way away, very frankly.

Mr. MCCREERY. Well, I would simply urge you to remind the Senators of the legislative history, the CBO estimate history, for this process, and that might help to quell—

Chairman BUNNING. The gentleman's time has expired. Mr. Coyne.

Mr. COYNE. Thank you, Mr. Chairman. Commissioner, how many States out of the 50 States take advantage of the option of providing supplemental benefits to SSI recipients?

Mr. APFEL. There's a number of States. I don't have the actual number; I will provide that for the record. Many States do provide a supplement over and above the amount that—my staff tells me it's approximately 35.

Mr. COYNE. Thirty-five States provide the benefits?

Mr. APFEL. Yes, State supplements to the SSI program.

Mr. COYNE. And, at the beginning of this process, they paid SSA a \$1.67 fee for administering the check, and now you're proposing that that fee go up to \$6 or \$7.

Mr. APFEL. Well, it's not proposing; it's now the law of the land. The fees were raised last year to cover the cost of Social Security for providing the service to the States for the SSI supplementation program for States.

Mr. COYNE. Well, as you know, Pennsylvania used to absorb that cost, and now because it's become so costly do that, they're no longer going to absorb the cost, and the beneficiaries are going to have to absorb the increased cost of \$6 or \$7. Is there any way that you can cut back on the high cost of processing those checks?

Mr. APFEL. It is our sense that this is a good estimate as to what our costs are. Many States cannot shift those costs over to beneficiaries because they are at a maintenance of effort levels. Some States that provide—as Pennsylvania does—more than the State maintenance levels that are allowed, have the option to cut benefits for low income, elderly and disabled people.

That's a State option. The Administration would rather the States not do that, needless to say. Many States can't, if at their maintenance levels, but States that are higher have that option, and I must say, we certainly don't look forward to seeing that happen, for States to take those actions.

But that is a State's right, if it's providing more than the maintenance levels, to reduce payments. And it appears, from what you're saying, that Pennsylvania is considering that as a State action rather than coming up with the money within the State to pay for that service.

Mr. COYNE. Would you anticipate that your automatic data processing efforts in the Administration will reduce the cost from \$6 or \$7 to something less for processing that? I mean, after all, the States that don't participate in exercising their option, their cases are reevaluated on a monthly basis, as well. And it seems to me that those States that are exercising the option and giving the supplement absorb the costs of the States that don't provide the additional supplement.

Mr. APFEL. Mr. Coyne, I will look into this and determine what our out-year projections are in terms of what those costs are. We would then have to come back to Congress for legislative changes, but I will provide this to you.

Mr. COYNE. To reduce the cost per check?

Mr. APFEL. What our out-year costs would be for this activity, to determine whether those costs are going to decline in the future. I'll provide that to you.

Mr. COYNE. Thank you.

Chairman BUNNING. We have less than 5 minutes until we have two votes, and we are going to recess for those two votes and we'll be back as soon as we can get here.

[Recess.]

Chairman BUNNING. The Subcommittee will come back to order. Since I'm the only one here, I get to ask the questions. [Laughter.]

I want to follow up on some prior statements and interpretations of the Social Security Independent Agency law. Congress deliberately gave SS statutory authority to submit a budget that cannot be changed by OMB—directly to the Congress. In other words, you can submit it without any changes made by OMB, in addition to the one that is submitted as part of the budget of the President.

Please describe the major differences that you had in your budget that wasn't in OMB's and the President's budget, \$250 million additional.

Mr. APFEL. There were three main differences. One of them actually turned out to be about \$150 million that turned out to be unnecessary, given the declines that the actuaries projected in disability workloads. So I had been projecting originally, months before, somewhat higher disability caseloads. When the final estimates came out sometime in the end of December, it was lower, so about \$150 million would be attributed to that.

The other \$100 million, about \$50 million of that was for automation activities, and about \$50 million of that was for overtime.

Chairman BUNNING. All right. Mr. Commissioner, for a long time, SSA was touted as the leader in addressing the Year 2000 computing issue in the Federal Government, then last fall, GAO issued a report pointing out several risks with SSA's Year-2000 effort. What assurances can you provide our subcommittees that you are adequately addressing these risks, and that the American public will not need to worry about disruption of their benefits when January 2000 arrives?

Mr. APFEL. I would start by saying that I firmly believe—and I can tell the American public not to worry about their benefits arriving. The benefits will arrive. The GAO identified three areas. I think they were very important areas that needed consideration, and we're acting on those areas.

One of the areas had to do with the DDSs, the Disability Determination Systems, and the issues about their systems coming into compliance. 14 of the DDSs are now up to speed—

Chairman BUNNING. You're at what?

Mr. APFEL. Fourteen of the 50 are now Year-2000 compliant. We expect all to be done.

We had one jurisdiction that was looking problematic but now that's been dramatically turned around. It should be done within the next 3 to 4 weeks.

Interfacing was the second area, making sure that our interfaces with the private sector, in terms of our records, wage reporting,

etc.—we've made believe we're in very good progress, excellent progress in that area.

Third was creating a contingency plan where we were in a position to assure that if something did go wrong, we had a backup plan. And we are developing that plan now. We expect to have that out within the next month.

And I think those are important steps. Actually from the GAO testimony today, I believe it also indicates that we are making excellent progress. I consider this to be a major priority of the agency. It is a hard, major, tough issue. We expect to be Year-2000 compliant by the end of the year. We have a full year for testing and we think that's the right plan to go—

Chairman BUNNING. In other words, you're going to have it in place, ready to go, and ready to be tested, by the end of 1998?

Mr. APFEL. That is our plan and our expectation, sir, for testing to take place next year.

Chairman BUNNING. So that the whole of 1999 can be used to test it.

Mr. APFEL. That's exactly right. There are other systems that we need to give a careful look—actually this will take place in the beginning of 1999—that are not our main interface systems. They are telecommunications systems. We must work with the telephone companies around the country, so that their activities won't interfere and hurt us. So there are activities that are taking place beyond Social Security proper, beyond the DDSs, beyond the employer records that are coming in, beyond our connections to Treasury—

Chairman BUNNING. I want to ask you one more question. Why do you think we gave the commissioner of Social Security a 6-year term, in our independent agency bill?

Mr. APFEL. One of the reasons that I think you did, which I think is incredibly important, is to provide long-term direction to the agency.

Chairman BUNNING. No matter who is in the White House or at OMB or in the speaker's chair; that's the reason. So that we'd have continuity, so if there is a change in 2000, that the continuity at the Social Security Administration remains constant. So I want you to know that you're an independent agency.

Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman. Commissioner, one of the questions that frequently comes to our district offices—in conversations I've had with other Members—is the question of the amount of time that it takes to satisfactorily bring a case to closure, and I know that's been one of your priorities.

It does cause some consternation among those who are awaiting the results. I have a woman in mind, in my district, who is very good at pursuing me at social events, and trying to find out if there is going to be some way to speed the hearing up, and I suggested repeatedly that the best we can do is send along a letter, you know, requesting that the process be expedited.

And, as one of your priorities, maybe you could talk a bit about some of the reforms that you're offering.

Mr. APFEL. You have every reason to be concerned because this has to be fixed. It's not a question that this is tolerable; we've got to bring down those backlogs.

In the short term, what we have done is increase resources in the hearings process, as I indicated to Mr. Collins. We've increased the number of ALJs by about 250, up to about 1,100 now. So there's more people handling these cases. We're seeing backlogs come down; we're seeing processing times reduced, which is important.

But, in the long run, what we've got to do is bring to closure efforts that were started back in 1993 to create a redesigned disability process. One initiative is process unification—in other words, trying to make sure that the process at the disability level, the State level, and the appeals level, are more in sync, understanding and following the same ground rules in terms of the case. The second initiative is an automated system, which is going to take some significant hurdles to implement, but it's a very important priority. And third, a re-engineered process so that cases move through the process with greater efficiency for the public.

All of these things need to take place. They're all long-term, tough problems, every one of these three. I think we're making some progress on all three, and I hope to be able to move by the end of the year on more of these re-engineering initiatives, to be able to help improve them. So, on the front end, it's added resources, which I think have made an important difference. But, in the long run, we've got to change the culture, we've got to change the dynamic so that we can move these cases faster.

Ultimately, what this comes down to is the legitimacy of our programs which is incredibly important to me as the Commissioner. The legitimacy of the Social Security programs, including our disability programs, must be broad-based. I think that the backlogs hurt that, and part of the way to strengthen the credibility and the importance of the Social Security Administration and the Social Security programs, is by addressing this issue. It's a very important priority to me.

Mr. NEAL. Thank you, Commissioner, very much. Thanks, Mr. Chairman.

Chairman BUNNING. Mr. Camp.

Mr. CAMP. Thank you, Mr. Chairman. Mr. Commissioner, I noted in your testimony that your first priority was the long-term solvency of the system, and that's certainly something I think we all agree with. And that your second priority was to ensure program integrity. And obviously that's very much related, first and second.

I noted that to do that, you, in your testimony, mention that you would like to redesign the disability process, and, obviously, I think that's very important, given this Associated Press story about one southern State where 180 members of one family were collecting Federal disability benefits until there was an investigation, and 90 of those members were removed from the rolls. Mr. Chairman, I would ask for permission to put this Associated Press story in the record of the committee hearing.

Chairman BUNNING. Without objection.

Mr. CAMP. The inspector general, as a result of finding this tremendous problem—which, I think, goes directly at the integrity of the system and ultimately the solvency of the system, if people who

should not be receiving benefits are—recommended that physicians that are not independent to make a fair judgment not be used, or continue to be used. And I know that your testimony describes that SSA is developing, “a comprehensive plan which will strengthen the management of the SSI program and substantially reduce overpayments made to SSI recipients.”

And my question is, just one, when will the results of that plan be available? Can you give a report on where you are in developing that plan so that we can ensure the public about the integrity of the system?

Mr. APFEL. We are working on a comprehensive plan that looks at a whole series of activities. It is, if I could say, Mr. Camp, some things are on-stream all ready, other things need to be taken into account. We intend to get a plan to you later this year.

If we look at ensuring program integrity in this front, Mr. Bunning has been a leader on CDRs, on Continuing Disability Reviews, to review the cases that are out there. This is one of the significant things that we are doing. Back in 1995, there were 200,000 CDRs performed; in FY 1998, we expect to be at 1.3 million, moving up to 1.6 million a year. So, it's a very important element in this endeavor.

Two, we have to do a better job of cross-matching data with employers to validate information about what a person's income is. There are a number of things that we already have on this front. We also get information on prisoners by cross matches with prisons. But this year we're planning to add nursing homes, to be able to ensure that if people go into nursing homes, we can capture that information. We're also matching with the new child support database that's being established, trying to find out earlier in the process whether people are getting earnings. And we're also, as you know, strongly supportive of the IG's significant increase in resources to be able to go after fraud.

So there are a number of steps to this and we are developing a plan. We expect, I don't have an exact month—

Mr. CAMP. Well, that's what my question is, particularly the timing of the report given that it would be helpful if it's in time for legislative action before Congress adjourns. If you can give a month that you expect to sent the report up—

Mr. APFEL. Actually, I can't give you a month. But we do anticipate completion of the strategic plan later this year, and I will see if we can speed it up as fast as possible because this is important. As was mentioned, we've got to assure the integrity of our programs because it's part of the legitimacy of what we do as an organization. It's a very high priority. We're putting a lot of resources into it, and we will continue to. And you'll see the plan.

Mr. CAMP. Well, I think it is a concern because the inspector general report showed that one in three of the recipients faked their disability during the review. So, clearly, there's a problem with the way the system is established now and I think the sooner that we can develop a plan that will reduce this kind—it's fraud and it's illegal and it shouldn't be happening. These are not people who are deserving recipients of the program. So, I guess, the sooner, the better. Thank you.

Chairman BUNNING. The gentleman from Missouri.

Mr. HULSHOF. Thank you, Mr. Chairman. Just a follow-up point, and really not to argue with you, Commissioner, but in your exchange with the chairman, you indicated that the President, in defending the budgets, that the deficits were 1 percent of GDP, and I guess my immediate reaction that I want to put on the record is that at the same time, the tax take from the American family—looking that the President’s Fiscal Year 1999 budget—is 20.1 percent of GDP, which is the second highest in the history of our country. So I throw that out for anyone to consider.

Also, in your written testimony, regarding the legislation introduced yesterday by the chairman and Mrs. Kennelly, the “Ticket to Independence Act,” you mention you commend the spirit and intent of the legislation. Let me put you on the spot: Do you support it and are you willing to endorse it today?

Mr. APFEL. We haven’t actually gone through the legislation line by line. There are a number of features in the ticket part of it, which affects Social Security, that we are very excited about. I know there are also tax provisions, there are also Medicare provisions, that I certainly can’t speak to directly at this time.

But in terms of the ticket proposal, we’re very excited about the ticket proposal. There are some benchmark payments that we’d like to talk some about in the course of the legislative deliberations. But the overall thrust of the ticket proposal, we think, is a major improvement for the country and we’re quite thrilled about it.

Mr. HULSHOF. Well, I walked back from our vote with Mrs. Kennelly, and she wanted me to ask that question. [Laughter.]

SSA is going to spend about \$1 billion to replace its current computer terminals with intelligent workstations and local area networks, and I think according to GAO, the 30,000 workstations include computers that have 100 megahertz capacity. And I’m not a computer wiz, but aren’t 100 megahertz computers seemingly obsolete, and doesn’t that cause you some concern? Can’t you buy these things at a Radio Shack or at a Best Buy or—

Mr. APFEL. Well, this is a very important issue, which is, how much capability do we need in our IWS/LAN system. I strongly feel that the models that we’re buying are exactly the right level for our organization. It would be a waste of taxpayer money to buy significantly more expensive systems. The 100 megahertz, even though it isn’t state of the art—that means it’s cheap, for one thing—will handle our data needs for the next several years.

When we move into computer unification in the disability front, we may need to upgrade each of those machines to somewhat go beyond the 100 megahertz. We can do that; we can do that cheaply.

So, I think the most cost-effective method that we have is going forward, absolutely, with the models that we have. And my own belief is that going to more expensive computers would be a waste of taxpayer money.

Mr. HULSHOF. And I appreciate your position. I also note in your written testimony regarding the Year-2000 compliance coming up this December, you’re ahead of deadline, and you’ve been commended for that, and I commend you as well, but then are we not, based upon what you just said, purchasing additional upgrades and

the like, how do you propose to square the two? Do these purchases, will they hinder your effort in the Year 2000?

Mr. APFEL. Not at all. The IWS/LAN is fully Year-2000 compliant. There are a few of the old non-IWS/LAN workstations still kicking around that may not be, and those are going to be replaced. But IWS/LAN is all Year-2000 compliant, every one of those machines. And implementation of that is really not a major issue for Y2K.

In terms of the upgrades, we may need some upgrades after we move on the disability computer automation efforts, but, certainly, that would also be Y2K compliant as well. I have no concern about Y2K compliance and the integration to our IWS/LAN systems.

Mr. HULSHOF. Thank you, Mr. Chairman.

Chairman BUNNING. The gentleman's time has expired.

Mr. Commissioner, I fully recognize that the number of continuing disability reviews processed by SSA has increased by 133 percent over the past 3 years, and I'm very pleased to see that progress. However, I remain deeply concerned that you are not utilizing the full amounts authorized in the law to ensure that individuals who are no longer disabled are removed from the rolls.

Since 1997, the agency has spent roughly half of what has been authorized. You recently reported to this subcommittee that as of October 1 of last year, there were 3.8 million backlog SSDI cases, and 1.6 SSI cases. Of these, 80 percent of the SSDI cases, and 97 percent of the SSI cases, have never had a full medical CDR.

Even in this year's President's budget, which I assume now that you signed off on, you requested only \$355 million to conduct CDRs. That's only one-half of what has been authorized by the law.

I know you were part of the process that brought about the legislation authorizing this spending, and know how difficult it was to achieve. Why aren't you spending this money, especially when you know that SSA's failure to consistently complete these CDRs has led to hundreds of millions of dollars in unnecessary costs each year, and is undermining the integrity of the program?

Mr. APFEL. Mr. Chairman, thank you for recognizing my role in the creation in this very, very important piece of legislation to establish the cap. I believe this is a very important model that we can use in other areas for fraud activities and program integrity activities.

We are on what I believe is a sustainable path on CDRs. What I have to do is figure out how to manage this organization and how to manage workloads and how to ensure our public responsibility.

As you pointed out, we have gone up from 200,000 CDRs, back in 1995, up to 1.3 million in 1998; we're proposing 1.6 million in 1999. We believe this is a sustainable ramp-up in CDRs that we believe we can eliminate the backlogs in DI by the year 2000 and in all of SSI by the year 2002 and then continue on a sustainable path in the future to continue this activity.

I know of your strong commitment and that you believe that we should be doing more. I think we are doing more. I think we are doing it at about the right pace. This ramp-up is really unprecedented, to go from 200,000 just a few years ago to 1.6 million.

Chairman BUNNING. Well you got \$4 billion more dollars.

Mr. APFEL. We think that's the right level of spending, the right ramp-up is taking place, so the organization can have the capacity internally to do the work and not create a cliff out there at the end, if we spike way up in the next two years, with all kinds of staff resources.

Chairman BUNNING. Can I ask you another follow-up? What percentage or reduction have you made in the CDR's, the backlog that we've had. In other words, are we at the same level? Are we reducing?

Mr. APFEL. No, it's coming down from what about—I'll have to get you the exact number for the record.

[The following was subsequently received:]

The CDR backlog, as of October 1, 1997, was 3.8 million. Of these, 2.2 million are for title II (this includes 588,000 concurrent title II/title XVI cases) and 1.6 million title XVI cases. Some of these cases are currently being worked as part of the FY 1998 workload. Cases remain part of the backlog until a CDR determination is made.

The current CDR backlog consists of all cases whose medical review diary came due prior to October 1, 1997. The backlog does not include certain cases whose reviews have been deferred: individuals who would be eligible for a non-disability benefit if disability ceased (windows age 60 and workers age 62) or individuals for whom the likelihood of a productive CDR is remote (individuals over age 65 or SSI recipients who were grandfathered-in from State welfare in 1974 at the beginning of the SSI program).

Chairman BUNNING. Please. I would like that, because you promised me a seven-year program the last time we met, and I don't have the copy of it yet.

Mr. APFEL. You don't. And I expect you will get that very, very soon.

I have a few decisions I have to yet make on that, but it will be very soon. I believe—

Chairman BUNNING. I would appreciate when I might get that.

Mr. APFEL. If you don't have it within a month.

Chairman BUNNING. We'll call you back and see?

Mr. APFEL. Yes, yes.

Chairman BUNNING. Okay.

Mr. McCrery, do you have any more questions?

Mr. MCCREERY. No, thank you Mr. Chairman. I appreciate that Chairman Shaw will submit questions in writing.

Chairman BUNNING. Mr. Portman?

Mr. PORTMAN. Just a brief follow up, and this has to do with the disability program also and the redesign of that. This subcommittee has been at it for some time now under its previous leadership and under Mr. Bunning's leadership and, as you know, SSA made some commitments to make major redesigns. The program, I think, was a six-year plan. GAO did an analysis of it in December of 1996 and said Social Security is about one-third of the way through the six-year plan and at that time, GAO, at least, reported that little or no progress had been made in terms of the redesign. Their recommendation was that SSA focus, on those initiatives, most likely to actually reduce processing time and costs, were some of the key problems.

Then last February, you all revised your redesign plan, you focused on eight key initiatives and it is my understanding, at least, the GAO believes that the success of that scaled-down plan, the

more focused plan, may also be threatened because of delays, because the testing results were disappointing, and so on.

I just wish you would give the subcommittee a report on that. I assume this question has not been raised already this morning. Particularly if you can tell us what progress is being made, how you have devoted to it in terms of resources, how much has been spent on this, what kind of results are you getting, and, you know, what your projections are for the future.

Mr. APFEL. Sure. It's a real big issue and it is a very important issue for this organization. It has been for years. The Social Security Administration originally created a number of very broad-based, fairly separate pilots and now has centralized some of those pilots into a more unified structure. A number of the different elements are now being tested in one place and the results so far are pretty promising for those.

I believe what we need to do, as soon as possible, is to get out of the testing stages and move to the decision stages on what to do. But we have got to make sure, in the process of making those decisions, that we consider an issue that I know is very important to this committee which is administrative costs as well as program costs. What's going to happen to program costs by these new models for these new activities as well as what is going to happen to administrative costs.

I am confident that we are going to be able to make some decisions later this year that will assure neutrality on the program side and also save money on the administrative side on establishing some of these activities.

One area that is incredibly important that we need to spend more time on relates to the automation issue for disability, which we discussed briefly. This is one that has tremendous payoff for the system as the IWS/LAN did for our organization.

I believe, and it is clear, as the GAO points out, that this is a project that has slipped and I have to push hard to see what we can do about this one. Regarding the automation endeavor, I am going to be getting some outside consultation over the next three months about the appropriate path of the future to either validate the direction we are moving in or to determine a couple of alternatives.

From my discussions with the disability determinations systems in the States, there is a belief that we need a unified platform and this is a very important thing for efficiencies through the organization.

Mr. PORTMAN. If I could just follow up for a moment because my time is lapsing here. It sounds like what you are saying, if I can summarize it and tell if I am inaccurate, is that perhaps you are beginning to focus on automation, some of the other issues, that help you do your existing job better but you are moving away from the fundamental redesign that you embarked on a couple of years ago.

Mr. APFEL. No, sir. Absolutely not.

Mr. PORTMAN. So, you are still committed to total redesign of this program and coming up with—

Mr. APFEL. I am fully—I would love to be able to say today that we are ready to move out of the testing stages and start three of the process changes. We are not there yet.

We need to ensure that this is a cost-neutral approach in terms of entitlement dollars as well as a saver in administrative dollars. I am putting great pressure on the organization to move as rapidly as possible. I intend, at the end of the day, to see redesign change processes in a fairly significant way and that would be further strengthened by the automation, but you're right, if all we're doing is automating the current process, then you get a one-time, fairly modest return on your activities; what we need to be able to do is reengineer the process and then automate so we really get long-term performance increases.

Mr. PORTMAN. I guess I'd make two quick requests and then the chairman has got to take my time me, which he will in a second, he turns my mike off. One, if you could give us some sense of what the cost is then, I think it is fair to say over a five or six-year period. Number two is what were your expectations originally in terms of work-year savings and have those been matched? I assume they have not. And what your expectations are now in terms of what the benefits might be to reach them.

Thank you, Mr. Chairman.

Mr. APFEL. I will provide that for the record, sir.

[The following was subsequently received:]

REDESIGN COSTS

We spent approximately \$9.24 million on disability process redesign in fiscal years 1995 through 1997. We expect to spend approximately \$17.59 million in FY 1998, for total 4-year costs of \$26.83 million. This does not include approximately \$1 million in FY 1996 and \$8 million in FY 1997 for policy development support for the redesigned decision methodology, or FY 1998 costs for policy development and lab testing which are expected to reach between \$9–\$10 million. Total operating costs in FY 1999 and FY 2000 are expected to be somewhat higher than the FY 1998 level as initiatives are implemented. Until we make the decisions later this year concerning which proposals to pursue, it is impossible to predict what the future costs or savings will be.

REDESIGN SAVINGS

Original redesign estimates projected savings of about \$305 million dollars annually following implementation of the complete process. These figures included savings from other budgeted initiatives which were also encompassed by the redesign (e.g., the Reengineered Disability System and Local Computing Platforms). Major savings expected from redesign were built on streamlining disability case processing and the administrative appeals process.

We do not expect to achieve the levels of savings originally anticipated in the redesign plan, although we do expect to improve customer service through reduced processing times and increased interactions and still save a significant number of workyears. Again, savings predictions are impossible until we make decisions later this year concerning which proposals to pursue.

Our original timeframes and expectations have slipped for several reasons. Before implementation began, SSA responded to stakeholder concerns by agreeing to conduct more extensive and rigorous testing than was originally planned. This approach, coupled with an inclusive developmental process, extended the developmental and testing timeframes.

Plus, the original reengineering assumptions were based on an ideal process. As implementation activities and plans evolved, issues which emerged were more time-consuming and complex than expected. Also, some external changes relied upon to support redesign activities did not occur. Based on a redesign assessment conducted at the end of 1996, SSA narrowed and focused attention on the four primary redesign tests along with development of key enablers.

The Full Process Model (FPM) test continues to be our most critical redesign activity because it combines several features into one process, including streamlining the appeals process. Testing began in April 1997 and results to date have been very promising. We are seeing an accurate increase in the initial allowance rate and a synergistic impact of features working together. Earlier testing of both the single decisionmaker and adjudication officer process helped in the development of these concepts and are included as part of the FPM process. Our most significant redesign savings and customer service improvements are expected through this process model.

Positive results are also coming from process unification activities which increase development and documentation done at the initial level. Process unification activities are contributing to a higher initial and reconsideration allowance rate which is offset by a lower allowance rate at the hearing level. This supports one of the primary goals of redesign: to allow cases that should be allowed at the earliest possible level.

Chairman BUNNING. Mr. Commissioner, I have 13 additional questions I am going to submit to you in writing and some of the other members of the panel, on both sides, have asked that they also be able to submit to you in writing, additional questions. We thank you for your testimony and we will ask the second panel to come forward.

Mr. APFEL. A pleasure to be here sir.

[Questions submitted by Congressman Levin, and answers provided by Commissioner Apfel, follow:]

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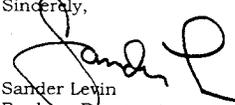
Mr. Kenneth S. Apfel
Commissioner
Social Security Administration
500 E Street, S.W.
Washington, D.C. 20254

Dear Commissioner:

Thank you for testifying before the Ways and Means Subcommittees on Social Security and Human Resources on March 12, 1998, regarding challenges facing the new Commissioner of Social Security.

I am submitting questions for you to answer for the record. In addition to a hard copy of your response, please submit your response on an IBM compatible 3.5-inch diskette in WordPerfect 5.1 format.

Again, thank you for your presentation before the Committee.

Sincerely,

Sander Levin
Ranking Democrat

SL/gt
Enclosure

**QUESTIONS FOR INCLUSION
IN THE RECORD FOR THE
SUBCOMMITTEE ON SOCIAL SECURITY
AND THE
SUBCOMMITTEE ON HUMAN RESOURCES
JOINT HEARING HELD
MARCH 12, 1998**

COMMISSIONER'S BUDGET

1. The Social Security Independence and Program Improvement Act of 1994 requires that "The Commissioner shall prepare an annual budget for the [Social Security] Administration, which shall be submitted by the President to the Congress without revision, together with the President's Budget's annual budget for the [Social Security] Administration." Please provide a summary of the "Commissioner's Budget."
2. How does the Commissioner's Budget compare to the President's Budget? Provide a table showing the differences between the two explaining the basis for any difference.
3. What, in your opinion, are the consequences of the President's versus the Commissioner's Budget on service to the public?

The Social Security Independence and Program Improvement Act of 1994 requires that "The Commissioner shall prepare an annual budget for the (Social Security) Administration, which shall be submitted by the President to the Congress without revision, together with the President's annual budget for the (Social Security) Administration." Please provide a summary of the "Commissioner's Budget."

The Commissioner's FY 1999 budget request of \$6.782 billion for administrative expenses included the following objectives:

- an increase in the number of SSI non-disability redeterminations processed;
- a continuing increase in the number of periodic continuing disability reviews processed;
- a reduction in processing times and pending levels for disability and appellate cases;
and
- a number of initiatives intended to improve efficiency and reduce workyear requirements.

This \$6.782 billion request for SSA administrative expenses included \$420 million in funds not subject to the discretionary spending caps for conducting additional continuing disability reviews and SSI non-disability redeterminations, \$50 million in no-year Capital Investment funds and \$48 million for the Office of the Inspector General.

How does the Commissioner's Budget compare to the President's Budget? Provide a table showing the differences between the two explaining the basis for any difference?

The Commissioner's FY 1999 budget request of \$6.782 billion for administrative expenses is \$259 million higher than the President's \$6.523 billion request. A detailed comparison is provided in the table that follows:

(\$ in Millions)	Commissioner's Budget Request (11/97)	President's Budget Request (02/98)	Difference
SSA Administrative Total	\$6,782	\$6,523	-\$259
Limitation on Administrative Expenses	\$6,705	\$6,448	-\$257
Base Capital Investment Fund	\$6,160	\$5,949	-\$211
	\$50	\$0	-50
Continuing Disability Reviews (CDRs)/SSI Non-Disability Redeterminations	\$420	\$405	-\$15
User Fees	\$75	\$94	\$19
<i>(SSI State Supplementation Payments)</i>	<i>\$75</i>	<i>\$75</i>	<i>\$0</i>
<i>(Client Representative Fees)</i>	<i>\$0</i>	<i>\$19</i>	<i>-\$19</i>
Office of Inspector General	\$48	\$52	\$4
Research (Discretionary)	\$29	\$23	-\$6
<i>(Total Research Incl. \$7M Mandatory)</i>	<i>\$36</i>	<i>\$30</i>	<i>-\$6</i>

What, in your opinion, are the consequences of the President's versus the Commissioner's Budget on service to the public and on the integrity of your programs?

The President's budget for our Limitation on Administrative Expenses is \$257 million lower than my FY 1999 budget request. However, in formulating SSA's FY 1999 administrative budget, we were not facing the same broad constraints as the President, who needed to choose among competing priorities in sending forth the first balanced budget in 30 years.

At the same time, demands have changed somewhat since my budget was submitted last year. Most significantly, a downward revision to our actuarial disability workload estimates has freed up approximately \$160 million, reducing our overtime requirements. For critical automation investments, we have funding sufficient to carry us through FY 1999, thereby freeing up another \$50 million.

This still leaves us some \$45-\$50 million short which represents funding I initially proposed for additional overtime to work down more of our pending actions.

Chairman BUNNING. The second panel testifying today is Jane Ross, the Director of Income Security Issues at the GAO; Joel C. Willemssen, the Director of Civil Agencies Information System at GAO; David Williams, the Inspector General of the Social Security Administration; and Mr. Williams is accompanied by Pamela Gardiner, Assistant Inspector General for Audit at the Office of Inspector General.

Ms. Ross.

STATEMENT OF JANE ROSS, DIRECTOR OF INCOME SECURITY ISSUES, GENERAL ACCOUNTING OFFICE

Ms. ROSS. Chairman Bunning.

Chairman BUNNING. Please pull the mike so we can hear you.

Ms. ROSS. Thank you for asking me to share GAO's perspective on the challenges that Social Security faces today. Our work shows that SSA recognizes the challenges we've identified and has taken, or plans to take, steps to address many of these problems. Nevertheless, the agency is moving too slowly and sometimes too narrowly to resolve most of its challenges.

Commissioner Apfel must assert strong leadership to translate SSA's plans into timely action.

Let's discuss solvency first. The national debate on Social Security solvency has begun. The President has made Social Security reform a top priority, and the Congress is beginning to discuss options.

Policymakers and the general public need thoughtful and detailed analyses of the likely effect of the different proposals on workers, beneficiaries, and the economy. They also need to know the impact of implementation on SSA and other government agencies. Although SSA is uniquely positioned to inform policy makers and the public about long-term financing issues, it has not undertaken the range of research, evaluation, and policy analysis needed to fully contribute to the debate. SSA has not seized the opportunity to build its research, evaluation, and policy analysis capacity.

Without an adequate number of skilled staff and a vital and responsive plan of work, the agency cannot fulfill its current and future role as the nation's expert on Social Security issues.

With regard to SSI, as we have already heard this morning, last year GAO designated SSI as a high-risk program because of its susceptibility to fraud and abuse and because we don't believe it has been well managed. Because SSI, unlike OASI and DI, is means tested, SSA must collect and verify a great deal more information on income, resources, and living arrangements in order to determine initial and continuing eligibility.

SSA is taking steps to address a number of weaknesses in SSI, and such efforts may help to correct some of the more obvious program weaknesses, but we believe that the problems of SSI are so fundamental that they require an in-depth program review to address root causes of the problem.

While such a comprehensive strategy is not yet in evidence, SSA has committed, and the commissioner did again this morning, to this comprehensive action plan before the end of this fiscal year. This action plan will be effective only if it includes a set of meas-

ures to evaluate their progress and to hold the agency accountable for what it actually achieves.

Looking next at SSI children, as you know the 1996 welfare reform law changed the childhood definition of disability, and SSA issued regulations to implement a stricter standard of severity than had existed in previous law.

Nevertheless, some children with impairments, less severe than those in the new threshold, have been awarded benefits because some of SSA's medical listings are still below the new severities level.

Some of these less severe listings are for impairments that are prevalent among SSI children, including mental retardation, cerebral palsy, and asthma. SSA is aware of the uneven severity levels in the listings, but hasn't yet established a schedule for updating them.

Until it does, children will not be assessed against a uniform standard of severity.

I'd like to just recap our findings on redesign, return to work, and CDR's.

Making disability decisions is one of SSA's most demanding and administratively complex tasks. SSA has struggled to process initial applications and hearings more quickly. Yet disabled claimants still often wait more than a year for a decision.

With regard to redesign, despite several years of work on redesigning the disability process, the overall results are so far disappointing.

Some of the testing is delayed, while tests of individual changes are showing very little effect on timeliness or efficiency. On the other hand, SSA is also conducting an integrated test of several initiatives, and the early results there do appear promising.

But if significant improvements in timeliness and efficiency can't be demonstrated soon, SSA will have to decide whether to proceed with its current design or take a different approach.

With regard to return to work, we've already issued a series of reports, as you know, over the past many years recommending that SSA place a higher priority on helping DI and SSI beneficiaries maximize their work potential. The program currently encourages applicants to emphasize their inabilities, not their abilities.

In the previous strategic plan, SSA pledged to pursue this objective through its Ticket to Independence, which would permit SSI and DI beneficiaries to obtain vocational rehabilitation or employment services from public or private vendors of their choice.

We believe that SSA's sole focus on employment services, while a good beginning, will not be as successful as the more comprehensive return to work strategy similar to that reflected in the bill introduced yesterday by Mr. Bunning and Ms. Kennelly.

Finally, on continuing disability reviews. We've also reported on the need to do more CDR's as required by law to help ensure the continuing medical eligibility of beneficiaries. As you know by 1996, more than 4 million beneficiaries were due, or overdue, for CDR's. And the Congress acted and authorized \$4 billion to bring SSA up to speed by the year 2002.

Last fall we testified to Mr. Bunning's committee on SSA's encouraging progress in conducting CDR's. For 1997, they consider-

ably exceeded their goal, and now they have more ambitious goals for 1998 and 1999.

Clearly the more quickly SSA can remove those who are no longer eligible, the more it can save in program costs.

However, SSA still has to grapple with some technical issues before it can determine how expeditiously and at what costs it can become current on CDR's.

In summary, SSA's issues are complex and solutions aren't easy to craft. The new commissioner will need to lead the agency with a sense of urgency to address its long-standing problems.

Thank you very much. I'm ready to answer your questions.
[The prepared statement follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Human Resources
and the Subcommittee on Social Security,
Committee on Ways and Means, House of
Representatives

For Release on Delivery
Expected at 10:00 a.m.
Thursday, March 12, 1998

**SSA's MANAGEMENT
CHALLENGES**

**Strong Leadership Needed
to Turn Plans Into Timely,
Meaningful Action**

Statement of Jane L. Ross, Director
Income Security Issues
Health, Education, and Human Services Division



Messrs. Chairmen and Members of the Subcommittees:

I am pleased to be here to discuss the challenges the Social Security Administration (SSA) faces today. With 1997 expenditures of about \$400 billion—constituting nearly one-fourth of the federal budget—SSA's programs touch nearly every American family. When SSA became an independent agency in March 1995, it gained a new measure of control over its resources as well as the authority to deal with its management challenges and to help guide the policy debate regarding the future solvency of the Social Security Trust Funds. These challenges are many, and their solutions are complex, in part because they are closely linked to profound changes in our country. The baby boom generation is nearing retirement age, people are living longer, and technology and its applications are changing rapidly. At the same time, the public is expecting better services from government agencies even though resources are constrained.

Over the past few years, we have commented on the challenges facing SSA several times: as it became an independent agency; after 1 year of independence; and, most recently, while the agency was awaiting a new commissioner.¹ We identified as SSA's greatest challenges its need to strengthen its research and policy capacity in order to address the solvency issue, address management and oversight problems with its Supplemental Security Income (SSI) program, redesign its disability programs and heighten their focus on work, and meet its future workload demands. Now that SSA has been an independent agency for nearly 3 years and has a new commissioner, you asked us to discuss SSA's progress in addressing these challenges. The information I am providing is based on our previous and ongoing work, much of it performed for these two Subcommittees. (See the list of related GAO products at the end of this statement.)

In summary, our work shows that SSA recognizes the challenges we have identified and has taken or plans to take steps to address many of these problems. In 1997, for example, SSA conducted even more eligibility reviews of disabled beneficiaries than it had planned. Also, after changes in the childhood disability program were enacted, SSA rapidly reviewed the cases of over 260,000 children receiving SSI benefits. Nevertheless, the pace at which the agency is moving does not seem adequate to resolve most of its challenges within a meaningful time frame. For example, SSA's efforts to bolster its research, evaluation, and policy analysis capabilities have a long lead time before useful products will be available. In the meantime, SSA will not be able to fully contribute to

¹Social Security Administration: Significant Challenges Await New Commissioner (GAO/HEHS-97-53, Feb. 20, 1997); Social Security Administration: Effective Leadership Needed to Meet Daunting Challenges (GAO/HEHS-96-196, Sept. 12, 1996); and Social Security Administration: Leadership Challenges Accompany Transition to an Independent Agency (GAO/HEHS-95-59, Feb. 15, 1995).

the current debate on Social Security reform. In addition, in some areas, SSA's efforts have also been too limited. Its steps to date, for example, to address deep-seated problems in its SSI program have been piecemeal and have not addressed the root causes of the SSI problems. Given the long-standing nature of the challenges SSA faces and their far-reaching implications for current and future program beneficiaries, the new Commissioner will need to assert strong leadership to spell out the expected changes and marshal the agency's resources to translate SSA's plans into timely action.

BACKGROUND

SSA administers three major federal programs. The Old Age and Survivors Insurance (OASI) and the Disability Insurance (DI) programs, together commonly known as "Social Security," provide benefits to retired and disabled workers and their dependents and survivors. Monthly cash benefits are financed through payroll taxes paid by workers and their employers and self-employed people. The third program, SSI, provides means-tested assistance to needy aged, blind, or disabled people. SSI payments are financed from general tax revenues. In 1997, 50 million beneficiaries—about one of every five individuals in this country—received benefits from SSA each month. SSA serves the public through a nationwide network that includes 1,300 field offices, 132 hearings offices, and a national toll-free telephone system.

To administer these programs, SSA must perform certain essential tasks: issue Social Security numbers to individuals; maintain earnings records for individual workers by collecting wage reports from employers, using these records to determine the amount of benefits an applicant may receive; and processing benefit claims for all three programs. In addition, SSA must determine beneficiaries' continuing eligibility, provide hearings and appeals for denied applicants, and disseminate information about its programs.

The OASI and DI programs are facing significant financial problems as a result of profound demographic changes. As a share of the total U.S. population, the elderly population grew from 7 percent in 1940 to 13 percent in 1996; this share is expected to increase to 20 percent by 2050. As it ages, the baby boom generation will increase the size of the elderly population. However, other demographic trends are at least as important. Life expectancy has increased continually since the 1930s, and further increases are expected. Moreover, the fertility rate has declined from 3.6 children per woman in 1960 to around 2 children per woman today and is expected to level off at about 1.9 by 2020. Combined, increasing life expectancy and falling fertility rates mean that fewer workers will be contributing to Social Security for each aged, disabled, dependent, or surviving beneficiary. While 3.3 workers support each Social Security beneficiary today, only 2 workers are expected to be supporting each beneficiary by 2030. In addition, as the population ages, the number of disabled individuals is expected to rise. Beginning in 2012–14 years from now—Social Security's expenditures are expected to exceed its tax income. By 2029, without corrective legislation, the trust funds are

expected to be depleted, leaving insufficient funds to pay the current level of OASI and DI benefits.

These demographic changes will also affect SSA's workload and approach to customer service. When the baby boom generation begins to retire shortly after the turn of the century, the agency must look for ways to cope efficiently with its increasing workloads without adding substantial numbers of employees. In addition, SSA knows that this new set of beneficiaries will likely prefer to be served differently from those whom SSA has served in the past. While SSA has traditionally delivered face-to-face service through its network of field offices, the public has begun to conduct more and more business by telephone. In the future, even more individuals may prefer to do business by telephone or other electronic means, such as the Internet. As a result, SSA must increasingly rely on the use of new technology to meet its workload challenges and provide service in the ways its new customers will expect. In addition, SSA currently relies heavily on information technology to support its administrative processes, and it has acknowledged that its goals for improved operations outlined in its strategic plan are not achievable unless the agency invests wisely in information technology.

Planning for the future is not new to SSA; SSA published its first strategic plan in 1988 and then significantly revised it in 1991. However, the Government Performance and Results Act of 1993 (the Results Act) provides agencies with a new uniform framework with which to develop their plans and monitor their progress. The agency submitted its current strategic plan, the first required under the Results Act, in 1997. The plan outlines the agency's strategic goals and objectives for the next 5 years. As also required by the Results Act, SSA has recently published its fiscal year 1999 performance plan. This plan provides more detailed information on how the agency intends to achieve its goals and the measures it will use to hold itself accountable over the next year. The two documents together chart SSA's future course.

SSA's strategic plan and its performance plan demonstrate that the agency recognizes its most pressing problems. In addition, they highlight the importance of leadership and recognize the need to ensure that the agency changes at the pace necessary to meet the goals it has set.

SOLVENCY DEBATE UNDERSCORES NEED TO
STRENGTHEN SSA'S RESEARCH AND POLICY CAPACITY

The national debate on Social Security solvency has begun. The Advisory Council on Social Security and others have advanced a range of proposals to address the system's solvency. Some proposals represent a significant departure from the current program. The President has made Social Security reform a top priority, and the Congress is beginning to discuss options. Given the magnitude of the financial problems facing the system, the nature of the proposals for change, and the growing interest in these topics

across the country, we can expect the debate over Social Security's financing and structure to continue and intensify in the coming years. To understand and debate the proposals, policymakers and the general public need thoughtful and detailed analyses of their likely effect on workers, beneficiaries, and the economy—as well as the impact of their implementation on SSA and other government agencies. SSA is in a unique position to inform policymakers and the public about the long-term financing issues, yet we have reported that the agency has not undertaken the range of research, evaluation, and policy analysis needed to fully contribute to the debate.²

In addition to the solvency debate, other issues call for enhanced research, evaluation, and policy analysis. For example, from 1988 to 1996, SSA's disability programs grew significantly. The number of beneficiaries receiving SSI increased by about 70 percent, while the number of DI beneficiaries grew by about 49 percent. In addition, beneficiaries are staying on the disability rolls longer. To better manage these programs, policymakers need more information on the causes of these changes, whether the programs are meeting their objectives, and the impact of possible changes. By improving its research and evaluation capacity, SSA also would be in a better position to propose legislative changes.

In its current strategic plan, SSA committed itself to a new goal: "to . . . conduct effective policy development, research, and program evaluation." The agency is taking steps to strengthen its capacity in these areas. It has increased its funding for external research; plans to expand its ability to use modeling techniques to predict the effects of proposed program changes; and, by the end of this fiscal year, plans to have established a research consortium to advise it on relevant research and policy activities. However, these efforts have a long lead time before useful products will become available. In the meantime, SSA will not be fully contributing to the current debate on Social Security reform. In addition, a recent report by a private consultant recommended that SSA substantially increase the number of its research and evaluation staff and combine the research and evaluation office with the policy analysis office.³ To date, the agency has

²Social Security Administration: Significant Challenges Await New Commissioner (GAO/HEHS-97-53, Feb. 20, 1997).

³Institute for Health and Aging, Strengthening Policy Development Work Within the Social Security Administration: A Review of the Mission, Resources and Capabilities in the Office of Research, Evaluation, and Statistics (San Francisco, Calif.: University of California, San Francisco, Dec. 1997).

added only a fraction of the recommended staff and does not have a long-range plan to add many more.⁴

SSA's need to strengthen its research, evaluation, and policy analysis capacity is not new; we and others have highlighted this weakness for a number of years. We are concerned that the agency has not seized the opportunity to build its capacity. Without an adequate number of skilled staff and a vital, responsive research, evaluation, and policy analysis agenda, the agency cannot fulfill its current and future role as the nation's expert on Social Security issues.

LONG-STANDING SSI PROBLEMS REQUIRE COMPREHENSIVE PLAN TO ENSURE DILIGENT MANAGEMENT AND OVERSIGHT

Early last year, after several years of reporting on specific problems with the SSI program, we designated SSI as a high-risk program because of its susceptibility to waste, fraud, and abuse and insufficient management oversight of the program.⁵ Since the program began in 1974, it has grown significantly both in size and complexity. Moreover, SSI poses a special challenge for SSA because, unlike OASI and DI, it is a means-tested program; thus, SSA must collect and verify information on income, resources, and living arrangements to determine initial and continuing eligibility for the program.

Our previous and ongoing reviews have highlighted long-standing problem areas. SSA does not pay enough attention to verifying eligibility information in a timely way, has failed to recover millions of dollars in SSI overpayments, has not installed adequate internal controls, and has failed to curb SSI program fraud and abuse. The program's complex policies and SSA's insufficient management attention exacerbate these problems.⁶ We have also criticized SSA for not initiating legislative proposals to improve program operations. Together, these deficiencies have eroded program integrity and contributed to significant annual increases in SSI overpayments to recipients. During 1997, current and former recipients owed SSA more than \$2.6 billion, including \$1 billion

⁴The report recommended adding 50 staff to SSA's research and evaluation office, and SSA's Advisory Board supports this recommendation. SSA officials told us they hired 9 researchers in fiscal year 1997 and have approval to hire 5 more in fiscal year 1998. However, even as they hire new staff, 7 key experienced staff recently retired and the office will likely lose more. In addition, SSA's policy office is permitted to have as many as 18 staff, yet the office currently has only 14 staff and knows of no plans for future increases.

⁵See High Risk Series: An Overview (GAO/HR-97-1, Feb. 1997) and our ongoing work.

⁶Supplemental Security Income: Long-Standing Problems Put Program at Risk for Fraud, Waste, and Abuse (GAO/T-HEHS-97-88, Mar. 4, 1997).

in newly detected overpayments for the year. On the basis of the agency's prior experience, SSA is likely to collect less than 15 percent of the outstanding debt in a given year.

SSA has acknowledged the need to attack this problem aggressively, and the agency is taking steps to address some of the weaknesses in the SSI program. For example, it is developing a new automated system to track and recover SSI overpayments and is expanding its use of on-line access to state data to obtain real-time applicant and recipient financial information. To address the overpayment problem, the fiscal year 1999 budget requests \$50 million to complete redeterminations for recipients who have been designated by SSA as having a high probability of having been overpaid.⁷ Finally, SSA has recently taken a stronger role in addressing fraud and abuse. For example, it has initiated several pilot programs aimed at detecting fraud and abuse earlier in the SSI application process.

While these efforts may help correct certain program weaknesses, we believe the problems with the SSI program are so fundamental that they require a broad program review to identify and address their root causes. This comprehensive strategy is not evident in SSA's current approach to the program. The agency's steps, in the absence of a broad review, will not be adequate to change the agency culture and produce the needed program overhaul. To help remove the SSI program from our high-risk list, SSA must address the root causes and ensure that the program receives adequate long-term management attention. In its new annual performance plan, SSA has made a commitment to complete a comprehensive action plan to improve the management of the SSI program in fiscal year 1998. This step links to SSA's strategic goal of making "SSA programs the best in the business, with zero tolerance for fraud and abuse." To be effective, the SSI action plan must include a carefully designed set of measures to evaluate progress and hold the agency accountable.

MORE WORK NEEDED TO IMPLEMENT NEW DEFINITION
OF CHILDHOOD DISABILITY ACCURATELY AND CONSISTENTLY

The 1996 welfare reform legislation changed the definition of childhood disability for the SSI program, and in February 1997, SSA issued regulations to implement the legislative changes. Under the new regulations, SSA reviewed the cases of 263,000 children and conducted an extensive review of the outcome of this process.⁸ The regulations represent a stricter standard of severity than existed in previous law. Under

⁷These redeterminations would be for nondisability factors of SSI eligibility.

⁸For more information, see SSA, Social Security: Review of SSA's Implementation of the New SSI Childhood Disability Legislation (Baltimore, Md.: SSA, 1997).

this standard, a child's impairment generally must result in marked limitations in two areas of functioning or an extreme limitation in one area, such as social functioning, cognition and communication, personal functioning, and motor functioning. Previously, a child was eligible if his or her impairment resulted in one marked and one moderate limitation or three moderate limitations.

In supporting the "two marked or one extreme" severity standard in its regulatory analysis, SSA concluded that the Congress meant to establish a stricter standard of severity than had previously existed. Nevertheless, some children whose impairments are at the prior, less severe threshold have been awarded benefits because SSA has not updated some of its medical listings, which are set below the two marked or one extreme functional limitation level. SSA has not quantified how many children are in this situation and may have difficulty doing so because its listing codes are not always reliable. Some of these less severe listings, however, are for prevalent impairments, including mental retardation, cerebral palsy, epilepsy, and asthma. SSA is aware that these listings are below the two marked or one extreme level, but has not established a schedule for updating its listings. This update is necessary to ensure that all children are awarded benefits on the basis of a uniform standard of severity.

Data on the accuracy of decisions on childhood cases raise other concerns. Although nationally the accuracy rate for decisions on new childhood cases and redeterminations exceeds 90.6 percent, which SSA considers its minimum standard for accuracy, many states fall below the standard. SSA is taking steps to improve decisional accuracy by training its adjudicators and quality assurance staff in areas SSA has found to be problematic. Moreover, it will be reviewing a larger sample of new childhood claims to identify problems unique to these cases so that it can issue policy clarifications and additional guidance as necessary. Under our mandate to report on the implementation of the legislation, we will continue to monitor the accuracy and consistency of decisions on childhood cases.

DISABILITY PROGRAMS REQUIRE PROCESS OVERHAUL AND HEIGHTENED FOCUS ON WORK

SSA's disability programs face several challenges. The agency's disability claims process is time-consuming and expensive, but the agency's efforts to redesign the process are disappointing. Moreover, SSA's disability caseloads for its DI and SSI programs have grown by nearly 65 percent in the past decade;⁹ SSA has not developed a plan that

⁹After rising significantly for a number of years, pending initial disability claims recently dropped 10 percent—from 442,000 in fiscal year 1996 to 398,000 in fiscal year 1997. Many experts attribute much of this decline to the strength of the economy and low unemployment rates.

sufficiently addresses actions needed to help beneficiaries fully develop their productive capacities, and few people have left the rolls to return to work. Despite these systemic problems, however, SSA recently has been making progress in reducing its continuing disability review (CDR) backlogs.

Disability Redesign

Making disability decisions is one of SSA's most demanding and administratively complex tasks, and SSA has struggled to keep pace with applications for disability benefits and appeals of disability decisions. Disability claimants often wait more than a year for a final decision. To manage the disability caseload growth, increase efficiency, and improve service to its customers, SSA began a major effort in 1993 to redesign the way it makes disability decisions. The agency developed an ambitious plan for change that included testing and implementing 26 key initiatives over a period of 6 years.

In December 1996, we reported that SSA was already one-third of the way through the 6-year period but had made little progress with testing and implementing the initiative. We identified a number of problems: SSA had delayed testing and project development, expanded the scope and complexity of certain initiatives, changed executive leadership, and risked losing stakeholder support. In that report, we recommended that SSA (1) focus on the initiatives most likely to reduce claims-processing time and administrative costs and (2) combine those initiatives in an integrated process and test them at a few sites before full-scale implementation. Responding to these concerns and those of other stakeholders, SSA revised its redesign plan in February 1997. It developed a scaled-down plan that focused on testing and implementing eight key initiatives. However, the new strategy retained plans to first test certain initiatives individually at a large number of sites nationwide.

On the basis of our ongoing work, we have determined that the success of SSA's scaled-down plan may also be threatened. SSA continues to experience delays in testing or implementing initiatives—anywhere from 2 months to 3 years. More importantly though, test results for the first two initiatives are disappointing.¹⁰ As tested, they will not result in dramatic improvements in efficiency and quality of claims processing. In addition, SSA has encountered performance problems with the software it considers vital to support the redesign effort, and the pilot tests have been delayed. On a more positive note, SSA is also conducting a test that combines a number of the initiatives into an

¹⁰The test of the single decisionmaker initiative was completed in November 1996. The test of the adjudication officer is still ongoing, but SSA officials have evaluated results through August 1997.

integrated process, and the early results are more promising, according to SSA officials.¹¹ It is too early to tell whether these positive results will continue and be significant enough to lead to the needed improvement in the claims process. If the results of these efforts do not demonstrate significant improvements, SSA will have some hard choices to make about whether and how to proceed with its current redesign plan. Even before receiving the disappointing test results, SSA had reduced or deferred its projected 5-year savings from disability redesign by more than 25 percent, or more than 4,500 work-years.¹²

Finally, as we have reported, one redesign initiative—process unification—is the linchpin of SSA's efforts to improve the integrity and efficiency of the disability claims process.¹³ This initiative focuses on reducing the inconsistency of decisions made by examiners at the state disability determination services (DDS), who make initial decisions, and by administrative law judges (ALJ), who decide appeals. We have supported SSA's efforts to improve consistency and have also recommended that SSA develop a performance goal to measure and report its progress in doing so. While SSA does not believe such a goal is appropriate and has not included one in its new performance plan, the agency has taken some steps toward reducing the inconsistency between decisions. The agency has (1) provided initial common training to decisionmakers at all levels and developed plans for follow-up training, (2) issued several rulings to clarify and reinforce current policy, and (3) initiated a pilot effort in 10 states to study the effects of providing more detailed explanations of the reasons for decisions at the initial level. By improving these explanations, SSA hopes to give ALJs a better understanding of the basis for the initial decision and to lay the foundation for greater consistency. Following the training and the new rulings, SSA officials told us they have seen some decline in the allowance rates at the appellate level.

Return-to-Work Efforts

Today, more than ever, people with disabilities have new opportunities to return to work, yet very few DI and SSI beneficiaries do so. New technologies and medical advances have provided people with disabilities with greater independence and ability to function. Also, the Americans With Disabilities Act supports the premise that people with

¹¹The full process model combines five different initiatives in an integrated test: (1) the single decisionmaker model, (2) the predecision interview, (3) the elimination of reconsideration, (4) the adjudication officer, and (5) the elimination of the Appeals Council review.

¹²These data are based on SSA's work-year savings estimates for fiscal years 1998 through 2002, as presented in the President's fiscal years 1997 and 1998 budgets.

¹³Social Security Disability: SSA Must Hold Itself Accountable for Continued Improvement in Decision-making (GAO/HEHS-97-102, Aug. 12, 1997).

disabilities can work and have the right to work, and the Social Security Act calls for rehabilitating benefit applicants to the maximum extent possible. Yet not more than 1 in 500 DI beneficiaries, and few SSI beneficiaries, have left the rolls to return to work.

Over the past few years, we have issued a series of reports recommending that SSA place a higher priority on helping DI and SSI beneficiaries maximize their work potential. The lengthy disability determination process encourages applicants to emphasize their inabilities, not their abilities. Beneficiaries receive little encouragement to use rehabilitation services. Also, work incentives may not make it financially advantageous for people to work to their full capacity.

In its recent strategic plan, SSA pledged to pursue the objective of helping people return to work. As a first step, the agency's new "ticket to independence" proposal would permit SSI and DI beneficiaries to use a "ticket" (similar to a voucher) to obtain vocational rehabilitation or employment services from a public or private vendor of their choice. SSA believes that this new access to employment services and SSA's long-range disability research agenda place a higher priority than in the past on return to work. However, we believe that, to succeed, SSA must develop a comprehensive return-to-work strategy integrating, as appropriate, earlier intervention and provision of return-to-work assistance as well as changes in the structure of cash and health benefits.¹⁴

Continuing Disability Reviews

CDRs are required by law for all DI and some SSI beneficiaries to help ensure that only those eligible continue receiving benefits. In the past, however, SSA has not conducted the number of reviews required by law. We have reported on several occasions that SSA's failure to consistently complete these CDRs has led to hundreds of millions of dollars in unnecessary costs each year and has undermined program integrity.¹⁵

For almost a decade, budget and staff reductions and large increases in initial claims have hampered SSA's efforts to conduct these reviews. Consequently, more than 4 million beneficiaries were due or overdue for CDRs by 1996. As a result of congressional

¹⁴Social Security: Disability Programs Lag in Promoting Return to Work (GAO/HEHS-97-46, Mar. 17, 1997).

¹⁵Social Security Disability: Alternatives Would Boost Cost-Effectiveness of Continuing Disability Reviews (GAO/HEHS-97-2, Oct. 16, 1996); Social Security Disability: Improvements Needed in Continuing Disability Review Process (GAO/HEHS-97-1, Oct. 16, 1996); and Social Security: New Continuing Disability Review Process Could Be Enhanced (GAO/HEHS-94-118, June 27, 1994).

attention to this problem, SSA developed a plan to conduct 8.2 million CDRs between 1996 and 2002, and the Congress authorized funding of about \$4.1 billion over 7 years for this purpose. SSA is currently revising this plan to incorporate new CDR requirements included in the August 1996 welfare reform legislation.

In 1997, we found that SSA's experience in conducting CDRs was encouraging. In that year, SSA conducted 690,000 CDRs, exceeding its goal of 603,000. In addition, the agency increased its goal to 1,245,000 for 1998 and 1,637,000 for 1999. The more quickly SSA can remove those who are no longer eligible from the rolls, the more it can save in program costs. However, key issues, such as deciding which beneficiaries should undergo a full medical review—a lengthy and costly process—are still unresolved but will determine how expeditiously and at what cost SSA can become current on its CDR caseload. Finally, we have noted that many beneficiaries whose health will not improve could nevertheless have or regain work capacity. Therefore, we believe SSA should consider how the CDR point of contact with beneficiaries could be integrated with return-to-work initiatives.

SSA MUST MEET FUTURE WORKLOAD DEMANDS
WITH NEW TECHNOLOGY, A FLEXIBLE SERVICE DELIVERY
STRUCTURE, AND A TRAINED WORKFORCE

In the near future, SSA will be challenged to serve increasing numbers of customers with fewer staff.¹⁶ The agency is counting on its effective use of technology to cope with these changes, although it is currently facing challenges with the installation of its crucial new computer network. In addition, SSA must accommodate the increases in workload and changing customer preferences with a flexible service delivery structure. Difficult choices about the future service delivery structure lie ahead. The agency is, however, taking positive steps to better prepare for the retirement of large numbers of its management staff and is taking advantage of new technologies to provide more accessible training to its staff around the country.

Effective Use of Technology Is Key to
Coping With Workload and Service Delivery
Demands

To handle increasing workloads and improve public service, SSA is in the midst of a multiyear, multibillion-dollar systems modernization effort. The cornerstone of this modernization effort is the intelligent workstation/local area network (IWS/LAN) initiative.

¹⁶As part of the governmentwide staff reduction plan, SSA has committed to reducing its staffing levels from approximately 65,000 to 62,000. SSA has planned a staff decrease of 1,700 for fiscal year 1999.

SSA plans to install up to 56,500 workstations and 1,742 local area networks in SSA field offices and state DDS offices throughout the country. The initiative is expected to improve productivity and customer service in field offices and teleservice centers and lay the needed foundation for further technology enhancements. SSA is depending on the success of this initiative and has stated that it cannot achieve its strategic goals unless it invests wisely in this infrastructure. However, the size and complexity of the IWS/LAN initiative pose significant challenges for SSA. We are monitoring SSA's progress as it installs its IWS/LAN and have some concerns, which we will present in a separate testimony today.¹⁷

As technological change opens doors to new ways of providing service, SSA faces difficult choices about how to provide cost-effective, world-class service to its customers. While SSA has traditionally delivered a considerable amount of its service through face-to-face contact in its network of field offices, other types of service are becoming more popular. The demand for SSA's 800 number telephone service continues to grow, and SSA's surveys show that callers prefer to use the telephone for more of their business. While these and other factors may affect how SSA delivers its services to the public, SSA has not developed plans to reassess its existing service delivery structure, including its network of field offices and teleservice centers. Over time, SSA will likely need to restructure how it does business to take advantage of new technologies, cope with staff reductions, and cost-effectively meet changing customer preferences.

SSA Has Begun to Revitalize Its
Training and Development Programs

One of the major challenges facing SSA in the future is its aging workforce. More than 57 percent of SSA employees are over the age of 45 and, therefore, approaching retirement. In addition, many of those retiring will be managers; over the next 5 years, 40 percent of SSA's staff at the middle management level and above will be eligible for retirement. In the past, we have criticized SSA for not adequately preparing for the loss of its experienced workforce. However, SSA has recently begun to better prepare for this retirement attrition. Officials told us the agency is in the process of conducting a detailed analysis of retirement patterns in order to predict when staff will retire and which offices or geographic areas will be most affected. The study is showing that SSA can expect a dramatic wave of retirements over the next 10 years. To help train staff to replace its retiring management corps, SSA plans to conduct a series of management development programs. It has formally announced plans for a Senior Executive Service Career Development Program and expects to complete selections in early spring of this year.

¹⁷For more details on these challenges, see Social Security Administration: Information Technology Challenges Facing the Commissioner (GAO/T-AIMD-98-109, Mar. 12, 1998).

SSA also plans to conduct a mid-level management development program and a management intern program.

SSA has also begun to revitalize its training programs to enhance the skills of current staff and to prepare them for future challenges and changes in their job expectations. For its current managers, SSA is developing a series of seminars designed to deliver a common message concerning leadership and change management related to the goals and objectives described in its strategic plan. SSA expects to have trained 100 percent of its DDS and SSA managers by the end of fiscal year 1999. SSA is also taking advantage of technology advances to provide training. Employees will be able to access a variety of training tools via the new intelligent workstations provided in SSA's technology roll-out. In addition, SSA is greatly enhancing its capacity to provide interactive video training/interactive distance learning throughout its entire service delivery structure. By the end of the summer of this year, SSA hopes to have deployed enough video training sites that 89 percent of its staff will be within 20 minutes of a site. This offers SSA the advantage of providing training to a wide audience at once, ensuring that most of its staff throughout the country receive the same message.

SSA believes that its workforce is the single most important element contributing to its success. Given the large number of predicted pending retirements and the certain future technological changes, it is especially important that SSA complete its retirement study, disseminate the detailed results, and sustain its momentum in ongoing employee training and career development.

RECENT INDEPENDENT AUDIT FINDINGS RAISE CONCERNS

A recent audit by an independent accounting firm found that SSA's fiscal year 1997 financial statements were fairly presented, in all material respects. However, the audit did identify significant deficiencies in the design and operation of information systems' internal controls that raise some concern for the future.¹⁸ The audit identified vulnerabilities that expose SSA and its systems to both internal and external intrusion; subject sensitive information such as Social Security numbers and benefit-related data to unauthorized access, modification, and disclosure; and increase the risk of fraud. For example, the audit found that SSA's agencywide security program does not provide the

¹⁸Although the audit identified these deficiencies, overall, it found that management's assertion that SSA's systems of accounting and internal controls were in compliance with the internal control objectives outlined in OMB Bulletin No. 93-06 was also fairly stated. This opinion on management's assertion was based on whether internal controls existed that would prevent or detect errors and irregularities in amounts large enough to be material to the financial statements.

comprehensive protection needed to safeguard the sensitive information its systems maintain. The audit also found that, because of deficiencies in the agency's contingency plans, SSA's systems are vulnerable to disruptions in the event of a long-term emergency. These deficiencies could significantly affect SSA's ability to continue critical operations without interruption in the event of a long-term emergency. The audit also reported that SSA's controls do not adequately protect the integrity of its systems' applications. These weaknesses expose SSA's application systems to unauthorized or undetected changes that could affect the integrity of processed information. Finally, the audit noted that SSA continues to have insufficient separation of duties or compensating controls to reduce, to an acceptable level, the risk of undetected errors, irregularities, or both. When SSA streamlined its business processes, the agency gave workers increasing control over information processing without imposing effective mitigating controls over their activities. As a result, SSA has limited its ability to prevent errors, fraud, waste, and abuse in a timely manner.

While the audit did not specifically disclose instances in which these vulnerabilities led to a misuse of sensitive information, SSA's Office of the Inspector General has reported on similar instances, such as ones in which access to confidential information was abused by SSA employees. The independent audit highlighted a series of corrective actions SSA should take to enhance its systems controls and security, and we support these recommendations. The Commissioner of SSA has stated that agency officials are working with the auditors to resolve any differences. He further stated that the agency will make every effort to take the steps necessary to ensure that information in its systems is protected and that SSA is able to continue operations in a time of emergency.

OBSERVATIONS

Overall, our work suggests that SSA recognizes each of the challenges we have identified and, in almost every case, has taken some action to address them. However, in some cases the steps have been too fragmented, and the results have often been slow in coming and disappointing. Yet, we recognize the issues are complex, and solutions are not easy. To effect meaningful change, SSA must address the root causes of its problems and ensure sustained management oversight. The new Commissioner will need to effectively lead the agency to move with a sense of urgency to address its long-standing problems.

Messrs. Chairmen, this concludes my prepared statement. I would be pleased to answer any questions you or Members of the Subcommittees may have.

RELATED GAO PRODUCTS

Social Security: Restoring Long-Term Solvency Will Require Difficult Choices (GAO/T-HEHS-98-95, Feb. 10, 1998).

Social Security Disability: SSA Is Making Progress Toward Eliminating Continuing Disability Review Backlogs (GAO/T-HEHS-97-222, Sept. 25, 1997).

Social Security Disability: SSA Must Hold Itself Accountable for Continued Improvement in Decision-making (GAO/HEHS-97-102, Aug. 12, 1997).

Social Security Disability: Improving Return-to-Work Outcomes Important, but Trade-Offs and Challenges Exist (GAO/T-HEHS-97-186, July 23, 1997).

Social Security: Disability Programs Lag in Promoting Return to Work (GAO/HEHS-97-46, Mar. 17, 1997).

High Risk Series: An Overview (GAO/HR-97-2, Feb. 1997).

Social Security Administration: Significant Challenges Await New Commissioner (GAO/HEHS-97-53, Feb. 20, 1997).

SSA Disability Redesign: Focus Needed on Initiatives Most Crucial to Reducing Costs and Time (GAO/HEHS-97-20, Dec. 20, 1996).

Social Security Disability: Alternatives Would Boost Cost-Effectiveness of Continuing Disability Reviews (GAO/HEHS-97-2, Oct. 16, 1996).

Supplemental Security Income: SSA Efforts Fall Short in Correcting Erroneous Payments to Prisoners (GAO/HEHS-96-152, Aug. 30, 1996).

SSA Disability: Program Redesign Necessary to Encourage Return to Work (GAO/HEHS-96-62, Apr. 24, 1996).

Supplemental Security Income: Disability Program Vulnerable to Applicant Fraud When Middlemen Are Used (GAO/HEHS-95-116, Aug. 31, 1995).

Social Security Administration: Leadership Challenges Accompany Transition to an Independent Agency (GAO/HEHS-95-59, Feb. 15, 1995).

(207028)

GAO/T-HEHS-98-113

Chairman BUNNING. Mr. Willemsen.

**STATEMENT OF JOEL C. WILLEMSSEN, DIRECTOR, CIVIL
AGENCIES INFORMATION SYSTEMS**

Mr. WILLEMSSEN. Thank you, Mr. Chairman. Thank you for asking us to testify on information technology challenges facing SSA.

Let me first discuss the Year 2000 issue that you previously brought up. SSA has made significant progress in assessing and renovating those mission-critical systems that are essential to the delivery of benefits.

However, as we reported last fall, three key risk areas remain. One concerns the need for SSA to improve its oversight of states' disability systems.

Second was making sure that SSA was adequately addressing the thousands of data exchanges it has with other organizations.

And, third, SSA lacks contingency plans that would need to be activated in the event of systems failures.

Our report made several recommendations on these areas. We are encouraged that SSA has agreed with them and is in the process of implementing those recommendations.

Next, let me turn to SSA's IWS/LAN acquisition. As mentioned, this is about a \$1 billion acquisition during the first phase that will include acquiring workstations and local area networks and as of March 1, SSA had completed installation of about 30,000 workstations and 800 local area networks.

Last year, SSA's contractor for this, UNISYS, submitted a proposal to upgrade the workstation with a higher speed process or at additional costs. As mentioned, UNISYS noted in its proposal that it was having difficulty in finding the 100 megahertz processors called for in the contract.

It should be pointed out that in today's market, one can buy a processor about three times that speed. Nevertheless, as was mentioned by the commissioner earlier, SSA believes that the 100 megahertz processors will meet its needs.

At the same time it is beginning to have some conversations with UNISYS on this issue.

SSA has also acknowledged, and we have validated, that some of the initial workstations purchased off of the IWS/LAN acquisition were not Year 2000 compliant. However, through our own testing, we have confirmed that the operating system that SSA has now chosen for IWS/LAN will correct the particular Year 2000 issue that we identified.

Let me point out just a few other additional challenges related to the IWS/LAN acquisition. One, some state DDSs have recently raised concerns about their lack of control over the local area networks being installed and about inadequate response time on IWS/LAN service calls.

Two, SSA does not currently plan to determine how IWS/LAN will contribute toward improving mission performance. Therefore, it is going to be difficult to assess how it will improve service to the public.

Three, as previously mentioned, the development of RDS is encountering problems. And this has led to an additional planned

nine-month delay, beyond the 28-month delay that we previously testified on.

Four, and as discussed in our report being released today, SSA has recognized weaknesses in its software development capabilities and has put a program in place to address that.

There are some key elements of that program that are missing. We have made recommendations on that, and, SSA, we're encouraged to say, is planning to implement those recommendations.

That concludes the summary of my statement.

[The prepared statement follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Human Resources and the
Subcommittee on Social Security, Committee on Ways and
Means, House of Representatives

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SOCIAL SECURITY
ADMINISTRATION

Information Technology
Challenges Facing the
Commissioner

Statement of Joel C. Willemsen
Director, Civil Agencies Information Systems
Accounting and Information Management Division



Messrs. Chairmen and Members of the Subcommittees:

We are pleased to be here today to discuss the information technology challenges facing the Social Security Administration and its recently appointed Commissioner. As with every other organization, both public and private, successfully crossing the threshold into the next century is the top information technology priority. My testimony today will update our report of last fall on where SSA stands in this area.¹

Beyond ensuring readiness for the millennium, another large challenge for SSA is successfully implementing its Intelligent Workstation/Local Area Network (IWS/LAN) initiative.² SSA expects this new capability, which my testimony will also address, to play a major role in its redesigned work processes and in better serving an increasing beneficiary population.

¹Social Security Administration: Significant Progress Made in Year 2000 Effort, But Key Risks Remain (GAO/AIMD-98-6, Oct. 22, 1997).

²In June 1996, SSA awarded a national IWS/LAN contract to modernize and standardize the distributed processing environment in its headquarters and field components and in state Disability Determination Services (DDS) offices. This initiative is intended to provide distributed processing--intelligent workstations (personal computers) on employee desktops, connected to each other and to SSA's mainframe computers by local and wide area networks. Phase I of the initiative is set to provide 56,500 workstations, 1,742 local area networks, and 2,500 notebook computers to SSA and DDS offices nationwide between December 1996 and June 1999.

Today we will also discuss our recent report assessing SSA's actions to improve its software development processes.³ Finally, we will update our testimony of last year on SSA's experiences with making personal earnings and benefits information available to individuals via the Internet.⁴

YEAR 2000: CITED RISKS BEING ADDRESSED

For the past several decades, computer systems have typically used two digits to represent the year, such as "98" for 1998, in order to conserve electronic data storage and reduce operating costs. In this format, however, 2000 is indistinguishable from 1900 because both are represented as "00." As a result, if not modified, systems or applications that use dates or perform date- or time-sensitive calculations may generate incorrect results beyond 1999.

SSA has been anticipating the change of century since 1989, initiating an early response to the potential crisis. It made significant early progress in assessing and renovating mission-critical mainframe systems--those necessary to prevent the disruption of benefits

³Social Security Administration: Software Development Process Improvements Started But Work Remains (GAO/AIMD-98-39, Jan. 28, 1998).

⁴Social Security Administration: Internet Access to Personal Earnings and Benefits Information (GAO/T-AIMD/HEHS-97-123, May 6, 1997).

--and has been a leader among federal agencies. Yet as our report of last October indicated, three key risks remained, mainly stemming from the large degree to which SSA interfaces with other entities in the sharing of information.

One major risk concerned Year 2000 compliance of the 54 state Disability Determination Services (DDS)⁵ that provide vital support to the agency in administering SSA's disability programs. The second major risk concerned data exchanges, ensuring that information obtained from outside sources--such as other federal agencies, state agencies, and private businesses--was not "corrupted" by data being passed from systems that were not Year 2000 compliant. SSA exchanges data with thousands of such sources. Third, such risks were compounded by the lack of contingency plans to ensure business continuity in the event of systems failure.

Our report made several specific recommendations to mitigate these risks. These included (1) expeditious completion of the assessment of mission-critical systems at state DDS offices and the use of those results to establish specific plans of action, (2) stronger oversight by SSA of DDS Year 2000 activities, (3) discussion of the status of DDS Year 2000 activities in SSA's quarterly reports to the Office of Management and Budget (OMB), (4) expeditious completion of SSA's Year 2000 compliance coordination with all

⁵One for each state plus the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. A federal DDS serves as a backup and model office for testing new technologies and work processes.

data exchange partners, and (5) development of specific contingency plans that articulate clear strategies for ensuring the continuity of core business functions.

SSA agreed with all of our recommendations, and actions to complete them are underway. We understand that the states are in various stages of addressing the Year 2000 problem, but note that SSA has begun to monitor these activities; among other things, it is requiring biweekly status reports from the DDSs. Further, as of this week, the agency planned to have a contingency plan available at the end of the month.

ONGOING ISSUES CONCERNING IWS/LAN IMPLEMENTATION

The resources that SSA plans to invest in acquiring IWS/LAN are enormous: Over 7 years the agency plans to spend about \$1 billion during phase I to replace its present computer terminals with "intelligent" workstations and local area networks. As of March 1, SSA had completed installation of about 30,000 IWSs and 800 LANs, generally meeting or exceeding its phase I schedule.

The basic intelligent workstation that SSA is procuring includes a (1) 15-inch color display monitor, (2) 100-megahertz Pentium workstation with 32 megabytes (MB) of random access memory, (3) 1.2-gigabyte hard (fixed) disk drive, and (4) 16-bit network card with adaptation cable. Preliminary testing has indicated that the IWS/LAN workstation random access memory will need to be upgraded from 32 MB to at least 64 MB.

Last year SSA's contractor, Unisys Corporation, submitted a proposal to upgrade to a processing speed higher than 100 megahertz at additional cost. Unisys noted that it was having difficulty in obtaining 100-megahertz workstations. Although personal computers available in today's market are about three times this speed, SSA stated that the 100-megahertz processing speed does meet its current needs. The agency is, however, continuing to discuss this issue with Unisys.

As the expected time period for implementation of IWS/LAN will span the change of century, it is obviously important that all components be Year 2000 compliant. SSA's contract with Unisys does not, however, contain such a requirement. Moreover, SSA has acknowledged, and we have validated, that some of the earlier workstations that it acquired are not Year 2000 compliant.⁶ However, SSA maintains--and we have confirmed--that the operating system it has selected for IWS/LAN, Windows NT, corrects the particular Year 2000-related problem. SSA has also said that it is now testing all new hardware and software, including equipment substitutions proposed by Unisys, to ensure Year 2000 compliance before site installation.

Phase II is intended to build upon acquisition of the initial IWS/LAN infrastructure, adding new hardware and software--such as database engines, scanners, and bar code

⁶These workstations failed to advance the date from December 31, 1999 to January 1, 2000 without user intervention.

readers--to support future process redesign initiatives. Contract award for phase II is planned for fiscal year 1999, with site installations between fiscal years 1999 and 2001.

We have not identified any significant problems in SSA's installation of IWS/LAN equipment at its field offices to date, and the agency has taken steps to minimize adverse impact on service to the public while installation takes place. Some state DDSs, however, have recently raised concerns about lack of control over their networks and inadequate response time on IWS/LAN service calls, resulting in some disruption to their operations. SSA currently maintains central control. Under this arrangement, problems with local equipment must be handled by SSA's contractor, even though many DDSs feel they have sufficient technical staff to do the job. Because of this issue, states have said that they want SSA to pilot test IWS/LAN in one or more DDS offices to evaluate options that would allow states more flexibility in managing their networks. Florida, in fact, refused to accept more IWS/LAN terminals until this issue is resolved. SSA is now working with the DDSs to identify alternatives for providing the states with some degree of management control.

Turning to managing the acquisition of information technology resources as an investment, SSA has--consistent with the Clinger-Cohen Act of 1996 and OMB guidance--followed several essential practices with IWS/LAN. This includes assessing costs, benefits, and risks, along with monitoring progress against competing priorities, projected costs, schedules, and resource availability.

What SSA has not established, however, are critical practices for measuring IWS/LAN's contribution toward improving mission performance. While it does have baseline data and measures that could be used to assess the project's impact on performance, it lacks specific target goals and a process by which overall IWS/LAN impact on program performance can be gauged. Further, while OMB guidelines call for post-implementation evaluations to be completed, SSA does not plan to do this.

In a September 1994 report, we noted that SSA had initiated action to identify cost and performance goals for IWS/LAN.⁷ SSA identified six categories of performance measures that could be used to track the impact of IWS/LAN technology on service delivery goals, and had planned to establish target productivity gains for each measure upon award of the IWS/LAN contract.

At the conclusion of our review, however, SSA had not established targeted goals or a process for using performance measures to assess IWS/LAN's impact on agency productivity improvements. According to officials, the agency has no plans to use these measures in this way because it believes the results of earlier pilots sufficiently demonstrated that savings will be achieved with each IWS/LAN installation, and because the measures had been developed in response to a General Services Administration (GSA) procurement requirement. Since GSA no longer performs this

⁷Social Security Administration: Risks Associated With Information Technology Investment Continue (GAO/AIMD-94-143, Sept. 19, 1994).

role, SSA sees these actions as no longer necessary. Yet without specific goals, processes, and performance measurements, it will be difficult to assess whether IWS/LAN improves service to the public. Further, the Clinger-Cohen Act requires agencies to develop performance measures to assess how well information technology supports their programs.

Knowing how well such technology improvements are actually working will be critical, given the expected jump in SSA's workload into the next century. The number of disability beneficiaries alone is expected to increase substantially between calendar years 1997 and 2005--from an estimated 6.2 million to over 9.6 million.

Concurrent with phase I installation is development of the first major programmatic software application--the Reengineered Disability System (RDS)--to be installed on the IWS/LAN infrastructure. It is intended to support SSA disability claims processing under a new client/server environment.⁸ Pilot testing of RDS software to evaluate actual costs and benefits of the system and identify IWS/LAN phase II equipment needs began last August. However, performance and technical problems encountered during the RDS pilot have resulted in a planned 9-month delay--to July 1998--in implementing the pilot system in the first state, Virginia. This will likely cause corresponding delays in

⁸In a client/server environment, servers and individual workstations are all capable of performing tasks that previously only the mainframe computer could accomplish. This can sometimes result in improvements over mainframe performance.

SSA's schedule for acquiring and implementing IWS/LAN phase II equipment, and further delays in national implementation of RDS.⁹

SOFTWARE DEVELOPMENT: KEY IMPROVEMENTS BEGUN, BUT
BASELINE DATA, MEASURABLE GOALS STILL NEEDED

How software is developed is another critical consideration; whether the modernized processes will function as intended and achieve the desired gains in productivity will depend in large measure on the quality of the software. Yet software development is widely seen as one of the riskiest areas of systems development. SSA has recognized weaknesses in its own capability to develop software, and is improving its processes and methods. This comes at a critical time, since the agency is beginning development of its new generation of software to operate on the IWS/LAN to support the redesigned work processes of a client/server environment.

Significant actions that SSA has initiated include (1) launching a formal software process improvement program, (2) acquiring assistance from a nationally recognized research and development center in assessing its strengths and weaknesses and in assisting with

⁹In September 1996 we reported that software development problems had delayed the scheduled implementation of RDS by more than 2 years. See Social Security Administration: Effective Leadership Needed to Meet Daunting Challenges (GAO/HEHS-96-196, Sept. 12, 1996).

improvement,¹⁰ and (3) establishing management groups to oversee software process improvement activities.

Key elements of the software improvement program, however, are still lacking--elements without which progress and success cannot be measured. These are: specific, quantifiable goals, and baseline data to use in assessing whether those goals have been attained. Until such features are available, SSA will lack assurance that its improvement efforts will result in the consistent and cost-effective production of high-quality software.

Our report¹¹ recommends that, as part of its recently initiated pilot projects, SSA develop and implement plans that articulate a strategy and time frames for developing baseline data, identifying specific goals, and monitoring progress toward achieving those goals. We are encouraged by SSA's response, which included agreement and a description of steps it had begun to carry out these recommendations.

PERSONAL EARNINGS AND BENEFIT ESTIMATE STATEMENTS:

INTERNET AVAILABILITY ON HOLD

For over 10 years, SSA has been providing, on request, a Personal Earnings and Benefit Estimate Statement (PEBES). The statement includes a yearly record of earnings, estimates of Social Security taxes paid, and various benefits estimates. Beginning in

¹⁰The Software Engineering Institute, Carnegie Mellon University, Pittsburgh.

¹¹GAO/AIMD-98-39, Jan. 28, 1998.

fiscal year 1995, such statements were sent annually to all eligible U.S. workers aged 60 and over; beginning October 1, 1999, the statements are to be sent to all eligible workers 25 and over--an estimated 123 million people. The public has generally found these to be useful in financial planning.¹²

In an effort to provide "world-class service" and be as responsive as possible to the public, SSA in March 1997 initiated on-line dissemination of PEBES to individuals via the Internet. The agency felt that using the Internet in this way would ensure that client data would be safeguarded and confidentiality preserved. Within a month, however, press reports of privacy concerns circulated, sparking widespread fear that the privacy of this information could not be guaranteed.

SSA plans many initiatives using the Internet to provide electronic service delivery to its clients. As such, our testimony of last May before the Subcommittee on Social Security focused on Internet information security in general, describing its risks and approaches to making it more secure. The relative insecurity of the Internet makes its use as a vehicle for transmitting sensitive information--such as Social Security information--a decision requiring careful consideration. It is a question of balancing greater convenience against increased risk--not only that information would be divulged to those who should not have access to it, but also that the database itself could be compromised.

¹²See GAO/T-AIMD/HEHS-97-123 and SSA Benefit Statements: Well Received by the Public but Difficult to Comprehend (GAO/HEHS-97-19, Dec. 5, 1996).

For most organizations, a prudent approach to information security is three-pronged, including the ability to *protect* against security breaches at an appropriate level, *detect* successful breaches, and *react* quickly in order to track and prosecute offenders. The Internet security issue remains a daunting one, and SSA--like other federal agencies--will have to rely on commercial solutions and expert opinion; this is, however, an area in which there is no clear consensus.

Shortly before our May testimony, the Acting Commissioner suspended on-line PEBES availability, promising a reexamination of the service that would include public forums around the country. After analyzing the results of those forums, the Acting Commissioner announced last September that a modified version of the on-line PEBES system would be available by the end of 1997.

The new Commissioner, however, has placed implementation of the new system on hold. SSA has hired a private contractor to assess the risk of the modified system; we see this as an important, welcome step in determining the vulnerabilities involved in the use of the Internet.

In summary, it is clear that SSA has made progress in dealing with its information technology challenges; it is equally clear, however, that such challenges will continue to face the agency, especially as it transitions to a new processing environment while concurrently dealing with the coming change of century. As a prime face of the government to virtually every American citizen, the stakes in how well the agency meets these continuing challenges are high.

This concludes my statement. I would be happy to respond to any questions that you or other members of the Subcommittees may have at this time.

(511226)

Chairman BUNNING. Thank you very much. David Williams.

**STATEMENT OF DAVID C. WILLIAMS, INSPECTOR GENERAL,
SOCIAL SECURITY ADMINISTRATION, ACCOMPANIED BY
PAMELA J. GARDINER, ASSISTANT INSPECTOR GENERAL
FOR AUDIT**

Mr. WILLIAMS. Chairman Bunning, Chairman Shaw, and members of the subcommittee, thank you for the opportunity to appear here today.

I would like to begin by acknowledging Commissioner Apfel's impressive beginning. I would also like to discuss areas where the Social Security Administration needs to focus its attention so that it may continue its development as an independent agency.

I have identified eight areas where strengthening and attention are needed.

The first challenge is the long-term solvency of the trust fund, communicating the seriousness of this matter to Americans, and engaging them in a discussion of the trade-offs inherent in any solution is imperative. I believe the initiative to conduct public forums is the right starting point in finding a solution.

Second is the problem of erroneous wage reports held in SSA's suspense account. At the end of Fiscal Year 1997, the cumulative balance of employee wages held in SSA's suspense account exceeded \$240 billion and it continues to grow. Unless corrected, suspended wages can reduce the amount of Title II benefits paid to individuals and their families. SSA must implement its newly established tactical plan to resolve suspended wages and evaluate its effectiveness.

Third is the backlog of continuing disability reviews needed to confirm the individual's, that individuals continue to be entitled to benefits. As of 1997, there were approximately 4.1 million individuals who were overdue a CDR. SSA must focus its attention on reducing the number of cases awaiting a CDR, as well as reducing other work loads such as requests for appeal hearings, in order to safeguard the integrity of the disability program.

The fourth area is fraud. GAO has included the SSI program in its list of high-risk programs because of such factors as self-reporting of income. The CDR backlog allows initial fraudulent claims to go undetected for long periods. Fraud is also found in other programs, including the disability insurance program. More serious levels of fraud involving identity theft crimes that are perpetrated with fraudulently obtained Social Security cards.

The magnitude of SSA's programs have resulted in sizable volumes of fraud in SSA. I believe SSA is a very good place to fight government fraud for these reasons and because eligibility for Social Security benefits is a gateway to other benefits such as Medicaid, Medicare, and food stamps.

The fifth area is SSA's progress in redesigning its processes for administering its programs. In redesigning these processes, SSAV will rely heavily on automated systems that manage benefits and target potential fraud. The redesign effort has progressed very slowly, including the automation portion. The anticipated benefits and improved efficiency and accuracy have not yet materialized.

The redesign's timely completion and SSA's evaluation of its impact on savings are critical challenges.

The sixth concern involves the complexity of SSA's programs. Over the years, SSA's programs have grown increasingly complex. Program complexity hinders SSA's ability to issue accurate payments and prevent fraud, and it promotes an excessive amount of litigation each year. Legislative and regulatory reform could eliminate underlying causes of problems in payment timeliness and accuracy.

The seventh area is the adequacy of SSA's internal controls over its data processing systems. OIG and Price Waterhouse audits have noted numerous problems in safeguarding SSA's integrity. These problems included inadequate protection of sensitive information; insufficient testing to ensure continuity of operations in the event of an emergency; and inadequate procedures to prevent and detect embezzlement and misdirection of benefit payments.

Adequate controls over data processing operations are critical to safeguarding highly-personal information and ensuring continuous public service. These systems must be protected.

The last area is integrating service delivery operations. SSA currently provides public service through a network of field offices, program service and teleservice centers, and a data operations center. Technology improvements also present promising opportunities for efficiency. I believe SSA would be well served by a long-term service delivery strategy that integrates and streamlines service delivery organizations and technologies into an efficient service delivery network.

In conclusion, it is evident that there are significant challenges facing Commissioner Apfel. I believe that, through the work of the OIG, especially under the Government Performance and Results Act, we will have an important role in keeping the Congress and the agency informed of progress in these areas.

Thank you, Mr. Chairman.

[The prepared statement follows:]

**SOCIAL SECURITY ADMINISTRATION
AS AN INDEPENDENT AGENCY**

**HEARING BEFORE THE
COMMITTEE ON WAYS AND MEANS**

**SUBCOMMITTEES ON SOCIAL SECURITY AND
HUMAN RESOURCES**

U.S. HOUSE OF REPRESENTATIVES

MARCH 12, 1998



**DAVID C. WILLIAMS
INSPECTOR GENERAL
SOCIAL SECURITY ADMINISTRATION**

Chairman Bunning, Chairman Shaw, and members of the Subcommittees, thank you for the opportunity to appear here today. I would like to begin by acknowledging Commissioner Apfel's impressive beginning. I would also like to discuss the areas where the Social Security Administration (SSA) needs to focus its attention so that it may continue its development as an independent agency. I have identified eight areas where strengthening and attention are needed.

The first challenge is the long-term solvency of the trust funds. Communicating the seriousness of this matter to Americans and engaging them in a discussion of the trade-offs inherent in any solution is imperative. I believe the initiative to conduct public forums is the right starting point in finding a solution.

Second is the problem of erroneous wage reports held in SSA's Suspense Account. At the end of FY 1997, the cumulative balance of employee wages held in SSA's suspense account exceeded \$240 billion, and it continues to grow. Unless corrected, suspended wages could reduce the amount of Title II benefits paid to individuals and their families. SSA must implement its newly established tactical plan to resolve suspended wages and evaluate its effectiveness.

Third is the backlog of Continuing Disability Reviews (CDR) needed to confirm that individuals continue to be entitled to benefits. As of 1997, there were approximately 4.1 million individuals who were overdue for a CDR. SSA must focus its attention on reducing the number of cases awaiting a CDR as well as reducing other workloads, such as requests for appeal hearings, in order to safeguard the integrity of the disability programs.

The fourth area is fraud. GAO has included the SSI program in its list of High-Risk programs because of such factors as relying on self reporting of income. The CDR backlog also allows initial fraudulent claims to go undetected for long periods. Fraud is also found in other programs, including the Disability Insurance program. More serious levels of fraud are found involving identity theft crimes that are perpetrated with fraudulently obtained Social Security cards.

The magnitude of SSA's programs has resulted in sizable volumes of fraud within SSA. I believe SSA is a very good place to fight Government fraud for these reasons and because eligibility for Social Security benefits is a gateway to other benefits such as Medicaid, Medicare, and food stamps.

The fifth area is SSA's progress in redesigning its processes for administering its programs. In redesigning these processes, SSA will rely heavily on automated systems to manage benefits and target potential fraud. The redesign effort has progressed very slowly, including the automation portion. The anticipated benefits of improved efficiency and accuracy have not yet materialized. The redesign's timely completion and SSA's evaluation of its impact on savings are critical challenges.

The sixth concern involves the complexity of SSA's programs. Over the years, SSA's programs have grown increasingly complex. Program complexity hinders SSA's ability to issue accurate payments and prevent fraud, and it promotes an excessive amount of litigation each year. Legislative and regulatory reform could eliminate underlying causes of problems in payment timeliness and accuracy.

The seventh area is the adequacy of SSA's internal controls over its data processing systems. OIG and Price Waterhouse audits have noted numerous problems in safeguarding SSA's integrity. These problems included

- inadequate protection of sensitive information,
- insufficient testing to ensure continuity of operations in the event of an emergency, and
- inadequate procedures to prevent and detect embezzlement and misdirection of benefit payments.

Adequate controls over data processing operations are critical to safeguarding highly personal information and ensuring continuous public service. These systems must be protected.

The last area is integrating service delivery operations. SSA currently provides public service through a network of field offices, program service and teleservice centers, and a data operations center. Technology improvements also present promising opportunities for efficiency. I believe SSA would be well served by a long-term service delivery strategy that integrates and streamlines service delivery organizations and technologies into an efficient service delivery network.

In conclusion, it is evident that there are significant challenges facing Commissioner Apfel. I believe that, through the work of the OIG, especially under the Government Performance and Results Act, we will have an important role in keeping the Congress and the Agency informed of progress in these areas.

Chairman BUNNING. Mr. Shaw will inquire, please.

Chairman SHAW. Thank you. Mr. Williams, you pointed out on page 3 of your testimony that the redesign of the process SSA will rely heavily on the automated systems to manage benefits and target potential fraud. The redesign effort has progressed very slowly, including the automation portion.

What's the reason for that? Is it fully funded, as I believe it is, or is it a lack of desire? What's the problem?

Mr. WILLIAMS. Ms. Gardiner has been closest to that work, Chairman Shaw, and I would like for her to respond to it. I'll be glad to add anything.

Chairman SHAW. Please, Ms. Gardiner.

Ms. GARDINER. Actually, it has more to do, it is funded and it has more to do with just a, the desires of the users in being identified and it also has to do with the IWS/LAN—

Chairman SHAW. Pull your microphone down. I'm having a little trouble hearing you. Thank you.

Ms. GARDINER. Also, I might add that Joel Willemsen will probably be able to provide even more detailed information because they have been looking at this specifically. But it is our understanding that it is fully funded. That that's not the issue. That the issue has to do more than defining user needs and if there are some complications, that the pilot test dealing with the single decision maker, and the disability claims manager and those tasks will tie into the hardware and software needs.

Also, and since those are behind, the computer needs haven't been well defined and so, therefore, they are moving at a slower pace too.

Chairman SHAW. Have you made some positive suggestions as to what they might be able to do to expedite this process?

Mr. WILLEMSSEN. If I add, Chairman Shaw, one of the other key areas where SSA is weak in, is developing software for this kind of client/server nonmainframe environment. And SSA recognizes their weaknesses, they are starting to put in a program to address that, but until it is fully implemented, it is not going to be surprising that we continue to hear about delays with things like RDS because the institutionalized processes to know how to develop software aren't there yet and until they are there, you will have a larger risk of these kind of delays continuing to occur.

So, we are, we are heartened to know that SSA recognizes its weaknesses and it is going to be moving out on it, they just need to do so quickly.

Chairman SHAW. Is there talent available that can move? I'm still wondering, do you have to hire some people with different skills, send people back to school?

Mr. WILLEMSSEN. Well, part of it, again, not going too deep technically here, but part of it is SSA's historically a major mainframe operation, and they have some very skilled folks who know how to do that.

With this IWS/LAN acquisition they will be moving into a different type of environment that takes different types of skills and it is not something that they are going to be able to do overnight.

And it is also not something to go out and just hire a hot-shot programmer. You have to institutionalize your processes on things

like defining requirements, tightly managing the configuration, having a quality assurance program, those kind of key processes are not at the level they need to be at this point in time.

Mr. WILLIAMS. Mr. Chairman.

Chairman SHAW. I'm not sure I understand the answer or I'm not sure I've gotten an answer.

Mr. WILLIAMS. There is this sort of chicken-and-egg problem of the computers supporting the effort that is undefined and the undefined effort needing to know how computer services will be able to support them. Social Security is stuck on this initiative and preceding too slowly.

Chairman SHAW. As far as appropriations, we're okay, I guess. Is there something that Congress should do? I guess that is what I should be asking. The problem is, if it is a question of spending more money to expedite the process of finding the fraud, then I would say that would be a good investment. We would probably save more by ferreting out fraud than we would spend in getting some real experts in who knew how to do this thing, or just contracting it, or go out and contract it in the private sector. Tell them to put this type of system in.

Mr. WILLIAMS. I know of no time in which we have come to you and asked for an investment in which you haven't given it to us. The problems are our own. There have been some disappointments with regard to the accuracy rates of some of the pilots. That has slowed us down. There has been some resistance on the part of the ALJs that I'm hearing about with regards to accepting the adjudication officer. Those aren't problems of investment, those are our fault.

Chairman SHAW. I would ask for a couple of more minutes. There is another area I want to get into, and I see there are only two of us up here to ask questions.

I'm referring now to an article that was in the *Washington Times* entitled "Study Uncovers Such SSA Abuse Investigating the El Paso Situation."

Congratulations, by the way, are in order for your good work in that area.

Mr. WILLIAMS. Thank you.

Chairman SHAW. Can you describe for the committee some of your ongoing efforts in this area, and especially, what impact the changes in the welfare reform law have had on your work? Does the SSA need other legislative tools from Congress to make sure that the SSI benefits are going only to those who should be eligible? The article that I am referring to talks about noncitizens collecting SSI who are not entitled to it under the welfare law. They weren't here when the law was passed and the article goes on to say that they are coming across from Mexico, picking up their check, and going back into Mexico. They don't even live here.

It also brings out the fact that these addresses were missing, and that many addresses really are post office boxes.

Mr. WILLIAMS. That exactly captures the nature of the problem and the target of the investigation.

We've tried to launch five major operations since my arrival. One of them is Border Vigil and that is the operation to which you are referring, Mr. Chairman. That is a very welcome offer to try to help

us strengthen, and we do have some ideas and we would like to work with your staff to try to discuss those.

I'd be really negligent if I didn't say that you have already been there, Chairman Bunning was the first to identify critical needs inside my office. The committees have given us great ideas for how to form and shape and target the attacks on the problem of fraud. You already have been there. We do have some ideas we'd love to talk to you about. I do want to quickly get to the impact of welfare reform though after thanking you.

The impact on the area of prisoners has been very important. We believe that, as a result of that reform, we can save over \$3.4 billion during the seven-year period that this will impact.

In the area of fugitives, we are just getting off the ground, we feel very good about that. It is infuriating that the government would finance the flight of a fugitive from its own justice system. We need to end that and we intend to do so.

Chairman SHAW. Did you say we are saving over \$3 billion by not sending the checks into prisons?

Mr. WILLIAMS. That's correct. It had an enormous impact.

Chairman SHAW. Congratulations.

Mr. WILLIAMS. We, with regard to the fugitives, had an idea to extend the debarment of fugitive benefit eligibility to the Title II program from the Title XVI program. We think that this is a great area to attack and we think that it is infuriating that we would inadvertently finance this kind of enterprise.

You asked about some of the other operations. Inside Border Vigil, we're also moving along the Canadian border with investigations similar to the ones conducted on the Mexican border.

Chairman SHAW. How about south Florida? Miami? Fort Lauderdale?

Mr. WILLIAMS. We have. As a part of operation Border Vigil, we're going into Caribbean countries. We're also very interested in Puerto Rico. Those nations have an impact inside Florida. There is a big interaction between Florida and several Caribbean nations that we have targeted.

So, yes we are and that is a good area to look at. It's a little more conceptual as a border than Mexico and Canada, but it's very much a target of our operations.

Chairman SHAW. Great. Thank you. Jim.

Mr. MCCRERY. Thank you, Mr. Chairman.

Ms. ROSS, I don't know if you were here when I questioned Mr. Apfel about the CBO estimates that were made at various times during the legislative process—

Ms. ROSS. Yes, I was.

Mr. MCCRERY [continuing]. On welfare reform. But I think you are familiar with those numbers. The conference report on welfare reform with respect to SSI for children said that 185,000 children would be removed from the roles based on the legislative language that was adopted in the conference report.

Then there was a later iteration after some tinkering that said 165,000, I think. And then when the SS, Social Security Administration issued their regulations to implement the legislative language, the estimate was dropped to 135,000. Then there was a top-to-bottom review and somehow, after that, and some further

changes, I guess, in the implementation, the most current estimate gives about 100,000 children to be removed from the rolls.

Is that your understanding of the history of these estimates?

Ms. ROSS. That's my understanding, precisely, yes.

Mr. MCCRERY. Given that, would you say that the Social Security Administration is carrying out the legislative intent of the Congress?

Ms. ROSS. A few months ago we were asked to look at how the social security regulations related to the welfare reform legislation, and we did so. We concluded that the interpretation that SSA was representing in its regulations was consistent with the new definition of childhood disability in the law.

Mr. MCCRERY. That was the initial offering by the Social Security Administration for their regulations; is that correct? This is not the top-to-bottom review?

Ms. ROSS. It's the interim final regulations that they have out, yes.

Mr. MCCRERY. And that's the estimate of 135,000 children to be removed from the rolls; is that correct?

Ms. ROSS. Yes.

Mr. MCCRERY. And after looking at that, you said, well, these regulations you thought fairly implemented the legislative intent?

Ms. ROSS. That's right, that the regulations had the level of severity that we understand was consistent with what the Congress was talking about.

Mr. MCCRERY. So what has happened since that time and now, when we have an estimate of 100,000 children?

Ms. ROSS. I think it's in the implementation of the regulations, not in a change in the estimates. First of all, it is hard to estimate—

Mr. MCCRERY. Sure.

Ms. ROSS [continuing]. These numbers. I haven't done it, but I am pretty sure that it would be difficult. I think what's really important to pay attention to is that this regulation is applied consistently and accurately. One of the things found in the top-to-bottom review was that there was some inconsistency, and there were some states that had particularly inaccurate both allowance and disallowance rates.

So I think SSA is trying to go through a process of being able to do this consistently and accurately, and the result has been that fewer people are going to be removed from the rolls. But I think we want to keep our eye on whether they have a good process.

Mr. MCCRERY. Yes, I appreciated your testimony about the uniformity of standards and how that is lacking right now in the process.

Ms. ROSS. That's true.

Mr. MCCRERY. Unfortunately, we didn't have time to ask Commissioner Apfel about that, but it is one of the questions that I will submit to him in writing. So I appreciate your bringing that to our attention.

Basically, though, getting back to the numbers and your assessment, given that since you made your assessment of the regulations and the estimate at that time was 135,000 children to be removed from the rolls, and now the newest estimate is 100,000, can

any reasonable person conclude, in your opinion, that the Social Security Administration is too harshly implementing the intent of the Congress?

Ms. ROSS. I suppose someone who had a different view could think that it was being implemented too harshly, but, again, I think the more important issue——

Mr. MCCREERY. No, no, no, Ms. Ross. I understand there are a lot of people who think the law is too harsh.

Ms. ROSS. Right.

Mr. MCCREERY. I'm talking about the Social Security Administration's implementation of the congressional language. In your opinion, are they acting too harshly in implementing the legislative language?

Ms. ROSS. No, we think that what they're doing in having a severity standard of either two marked impairments or one extreme impairment is totally consistent with what the Congress asked for. I think it's important that we be sure they do that correctly by continuing to monitor the way they're doing their reviews and by looking at having expanded quality assurance samples, and so on. So that then you could not only say that SSA used at the right standard, but that the standard was being applied fairly.

Mr. MCCREERY. Thank you.

Chairman BUNNING. I have approximately 17 questions that I'm not going to ask. I'm going to submit them to you in writing, so that you can respond in writing.

[Questions asked by Chairman Bunning and the respective answers provided by Mr. Huse, Ms. Fagnoni, and Mr. Willemsen follow:]



SOCIAL SECURITY

Office of the Inspector General

JUL 10 1998

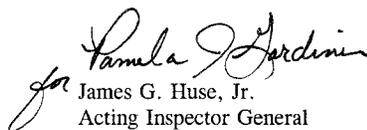
The Honorable Jim Bunning
Chairman, Subcommittee on Social Security
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Bunning:

Thank you for your June 10, 1998, letter in which you requested answers to questions regarding the challenges facing the new Commissioner of Social Security. Your request emanated from testimony the Inspector General, David C. Williams, gave on March 12, 1998 before your Subcommittee and the Subcommittee on Human Resources.

I am pleased to enclose our responses to the Subcommittees' questions. If you have any questions or need additional information, please call me or have your staff contact Patrick P. O'Carroll, Office of External Affairs, at (410) 965-7427.

Sincerely,


for James G. Huse, Jr.
Acting Inspector General

Enclosure

**ANSWERS TO QUESTIONS FROM
THE SUBCOMMITTEE ON SOCIAL SECURITY
AND
THE SUBCOMMITTEE ON HUMAN RESOURCES
HOUSE COMMITTEE ON WAYS AND MEANS**

QUESTION #1: You point out that the audit of the Social Security Administration's (SSA) financial statement identified significant deficiencies in SSA's general control environment. Can you provide more detail as to what SSA should be doing in these areas, and your assessment of how SSA is responding to correct these deficiencies?

ANSWER: The Office of the Inspector General (OIG) and Price Waterhouse (PW) audits have noted problems in safeguarding the integrity of SSA's data processing systems. Our testimony summarized the deficiencies as: 1) inadequate protection of sensitive information; 2) insufficient testing of continuity of operations in the event of an emergency; and 3) inadequate procedures to prevent and detect embezzlement and misdirection of benefit payments.

Subsequent to our testimony, PW provided SSA a Limited Distribution Management Letter¹ containing 48 detailed recommendations on how the Agency can improve two elements of its data processing environment information protection and continuity of operations.

Information Protection

With respect to information protection, the auditors recommended that SSA improve its:

- ▶ comprehensive security program,
- ▶ accreditation of systems,
- ▶ network security,
- ▶ systems security,
- ▶ application security, and
- ▶ physical security.

The weaknesses in information protection increase the risks of unauthorized access to, and modification or disclosure of, sensitive SSA information.

¹ The sensitive nature of the information contained in this report limits its distribution. We can provide a restricted copy to you upon your request.

Continuity of Operations

PW also recommended that SSA improve and fully test its plan for continuity of operations. Continuity of operations ensures the Agency's ability to carry out its operations in the event of an emergency. Losing the capability to process, retrieve, and/or restore the beneficiary and payment information SSA maintains electronically would obviously impair the Agency's ability to provide service to the American public.

As such, information protection and continuity of operations are essential to the integrity of SSA's data processing function.

SSA's Response

SSA agreed or partially agreed with 46 of the 48 recommendations in that draft report, or 96 percent. SSA asked the auditors to reconsider the following two recommendations.

- ▶ Remove password view capability from two security administrators in the Office of Systems (the only two who had that capability).
- ▶ Require that SSA employees go through metal detectors and pass their belongings through x-ray machines as they enter or exit buildings.

The auditors kept those two recommendations in the final report, and SSA continues to disagree with its recommendations in those cases. SSA contends that these issues have little, if anything, to do with the protection of information. We support PW's recommendations.

SSA and PW should continue their dialogue on systems deficiencies to fully understand the vulnerabilities and risks in order that cost-effective solutions can be developed. This dialogue is particularly important on recommendations for which PW and SSA have not yet reached agreement.

Audit Follow-up

PW will assess and report on the Agency's progress in addressing data processing deficiencies as a part of the Fiscal Year (FY) 1998 financial statement audit. OIG will also perform a variety of systems audits aimed at evaluating SSA's data processing control environment.

QUESTION #2: A key foundation to the Continuing Disability Review (CDR) process is the profiling system which SSA relies on to select cases for review using the mailer process. I understand you have some concerns about this mailer process. Can you tell us why an accurate mailer process is so important, what your concerns are, whether SSA agrees, and what actions SSA is taking to improve this process?

ANSWER:

Why is an accurate mailer process important

When conducting a CDR, SSA: 1) issues a mailer CDR to the beneficiary; 2) sends the case for a full medical review; or 3) does both. Only about 5 percent of the cases that receive a mailer also receive a full medical review. A portion of the 5 percent of beneficiaries receive both a mailer and full medical review because the mailer when returned indicates possible medical improvement. The remainder receive both for quality assurance testing. The importance of the mailer process is that in about 95 percent of cases where a beneficiary receives a CDR mailer, the mailer is the only contact with the beneficiary before a decision to continue benefits is made.

In deciding who receives a mailer, SSA uses a profiling system. Currently, the mailer program is used for cases where the likelihood of benefit termination is low based on this profiling system. Once SSA has exhausted the pool of beneficiaries who profile at a low likelihood of improvement, those beneficiaries will not be due for another CDR for 7 years. In future years, SSA plans to use improved profiling to identify cases where the likelihood of benefit termination is higher, but using a mailer would still be cost effective.

OIG Concern

Although we have not conducted an audit of this specific area, our concern with the mailer process relates to SSA's progress in improving the profiling system quickly enough to keep up with the CDR backlog elimination plan. In this regard, SSA plans to drastically increase the number of mailer CDRs conducted over the next few FYs.

SSA's Actions

SSA is working to improve the profiling system and still expects to meet the backlog plan goals.

QUESTION #3: What feedback does SSA management provide employees to ensure that quality service is provided to its customers?

ANSWER: We participated with SSA on a joint task force to improve the accuracy of payments for SSA's Old-Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs. In its September 1997 report, the task force recommended that SSA develop a system to provide meaningful feedback to employees on payment accuracy.

The task force concluded that SSA gathers information on the accuracy of program payments. The information is used as a quality measurement system to meet national level needs (e.g., accountability reporting, budget justification, and congressional inquiries). However, there is no mechanism to provide feedback to SSA's field office (FO) staff involved in the service delivery process.

SSA interprets quality in a broad sense to encompass all aspects of service delivery including, accuracy, timeliness, and courtesy. FO employees receive information on their timeliness and courtesy through varying mechanisms. They receive feedback directly from customers, surveys, and national initiatives. However, FO employees interviewed by the task force were not provided with feedback to assist them in improving the "accuracy" of their work. SSA's claims representatives believe that feedback should serve as an opportunity for learning and improving their work.

SSA contends that there is a mechanism that provides field offices (FO) with individual case feedback on every error identified in the course of SSA's Office of Quality Assurance and Performance Assessment's (OQA) ongoing and special study reviews. However, the size of the quality review and special study samples are designed to provide statistically reliable data at the national level only. Therefore, the volume of error case feedback to each of SSA's 1,300 FOs is not sufficient for individual claims representatives to receive feedback from OQA on the quality of their individual work products. OQA incorporates their quality review findings in individual reports that are distributed to the Office of Operations, along with incorporating these findings and corrective actions in policy and procedural issuances that are received by every FO. Furthermore, revised processing instructions resulting from OQA reviews are disseminated to all FOs.

QUESTION #4: I understand your staff is increasing its audit work in the Office of Hearings and Appeals (OHA). Would you briefly summarize the work you have completed and have planned, and your overall findings as to the effectiveness of the OHA operation and its management?

ANSWER: We are in the process of increasing audit attention in OHA. We are establishing an office at the OHA in Falls Church, Virginia and are hiring additional staff specifically for that office. We expect that office to open shortly after the start of the new FY.

Currently, we are completing two audits--one in the area of employee fraud and the other review measures the accuracy of data used by SSA to report on OHA progress in meeting its overall goals. In the area of employee fraud, we found that hearings office clerks had access to cases through every stage of the case development process; that accountability of appealed cases and claims files was poor; and that controls were lacking to compensate for employees' extensive access to case development. A draft report on this review will be issued shortly.

As a result of recent complaints received by our Office of Investigations (OI), we have initiated a review of time and attendance at OHA. This review will focus on OHA's time and attendance recording and reporting practices. We will also follow up on a December 1994 report on "OHA Time and Attendance Recording and Reporting Practices" issued by the Department of Health and Human Services, Office of Inspector General (HHS/OIG). The HHS/OIG audit identified weaknesses in internal controls over the time and attendance recording and reporting practices at OHA. The conditions were particularly true when employees worked at remote sites and when recording and reporting exceptions of time and attendance deviated from the standard work period.

Our FY 1999 Work Plan also includes several audits aimed at OHA performance and accountability. For example, one review will determine the reasons for high error rates in cases accepted by OHA which were originally denied by State Disability Determination units. In addition, we plan to undertake a review to measure the effectiveness of the Disability Redesign initiative at SSA by comparing the reversal rates before and after implementation of uniform criteria for evaluating cases under "process unification."

QUESTION #5: What work are you conducting in terms of monitoring SSA's compliance with GPRA?

ANSWER: The Office of the Inspector General has outlined a four point approach to reviewing SSA's performance measures. OIG will: 1) assess SSA's system capacity to produce performance data; 2) assess whether reported performance measure data are valid; 3) ensure that SSA has the appropriate measures to indicate the vitality of its programs; and 4) ensure that the performance measures capture the program segments that they represent themselves to capture.

Our Office of Audit (OA) began to address all of these points. Our audit team responsible for monitoring the implementation of GPRA has begun to evaluate the data sources that are being used to measure performance. We believe that a performance measure is only as good as the data which supports it. The GPRA issue team plans to review SSA's data capacity for all performance measures, including the Porter Commitments², to ensure that they provide accurate and reliable information.

We recently completed our first audit that reviewed the data used for a performance measure. We examined the system used to measure the timely issuance of Social Security number (SSN) cards. Our audit revealed that there were flaws in the data that could result in an inaccurate reporting of performance in this area. OIG has similar audits and evaluations currently underway and more are planned for the future.

In addition to our work to assess SSA's data capacity for performance measurement, we began a review of SSA's performance plan for FY 1999. Our initial review identified some weaknesses. For example, we found that the performance measures in the plan are not tied to specific budget requests. Unless specific dollar amounts are linked to performance measures, it will not be possible to determine the cost of achieving specific performance goals. Also, we believe that SSA's performance plan is missing some important strategies. For example, SSA briefly discusses its return to work initiative, but the discussion does not provide sufficient detail to determine whether the strategy would result in achieving the goals that have been established. We also identified areas that do not appear

² Eighteen of the measures are known as Porter Commitments, because Congressman Porter asked former Commissioner Chater to enter into a contract that would tie SSA's administrative finding to selected productivity and service improvements.

to be adequately covered by the current performance measures and goals; e.g., earnings suspense file issues, the Year 2000 computer problem, SSI program's high-risk status, and the progress of the disability process redesign. We have shared these concerns with the Agency.

We will continue to conduct work of this nature. We will review all of the yearly performance plans and future strategic plans. We will continually review the performance measurement data systems to ensure that performance is accurately measured. These actions will help to effectively monitor SSA's compliance with GPRA.

QUESTION #6: What actions has SSA undertaken to resolve the problem of erroneous wage reports held in SSA's suspense account? Am I correct in understanding that the cumulative balance of this account now exceeds \$240 billion?

ANSWER: SSA takes a number of actions on a regular basis that are effective in preventing or reinstating suspended wage items. However, we believe that the Agency has not been proactive in dealing with a relatively small number of "problem" employers who account for a disproportionate share of the suspense file.

SSA uses a number of techniques to prevent wage items from going into the suspense file and to remove them from suspense. SSA annually keeps from suspense about 3.4 million of 8.5 million initially unmatched items by electronically or manually correcting name/SSN data. An example is Single Select: it assumes the name is correct and the SSN is incorrect, and then looks through many possible variations of numbers for a single match.

SSA also annually removes about 3.5 million items from the suspense file and posts them to individuals' earnings records. Some examples of the techniques used: 1) SSA annually sends correspondence to wage earners asking for information to resolve suspended wages/responses result in reinstating about 500,000 items; 2) SSA matches name/SSN/address data from the Internal Revenue Service (IRS) against the suspense file, which results in reinstating another 500,000 items annually; and 3) SSA has been piloting what it refers to as "Expanded Operation 30," which adds new validation rules for matching names and creates a new category of possible matches for further manual review by technicians who have access to additional SSA files. In addition, SSA has other suspense file reduction pilot projects planned.

Problem Employers

For tax year 1995, 2,800 employers (.04 percent of the 6.5 million nationwide) were responsible for 30 percent of the suspended wage items and 20 percent of the suspended wage dollars. Our concern is that this long-standing problem is getting worse. SSA is now developing and documenting the necessary history that will permit IRS to impose penalties on the problem employers.

The cumulative suspense file total through 1996 was \$225.7 billion. SSA has not completed processing data for 1997, but has added another \$12.8 billion to the suspense file for 1997 through May 1998, for a cumulative total of \$238.5 billion. When SSA completes work on the 1997 file in the next 2 to 3 months, the total may exceed \$240 billion.

QUESTION #7: One of your concerns involves the complexity of SSA's programs. These complexities hinder SSA's abilities to issue accurate payments and prevent fraud. Does SSA concur with these findings? Is there a willingness by the leaders of the Agency to reduce complexity?

ANSWER: SSA concurs with these findings. The Commissioner of Social Security testified before Congress on March 12, 1998, and stated that Agency management is committed to addressing program complexities, particularly in the SSI program. To demonstrate its commitment, SSA management has established several workgroups to address program complexity and to evaluate ways in which the Agency can simplify program administration and, therefore, improve payment accuracy and prevent fraud. One such initiative is the Payment Accuracy Task Force, in which SSA management, in cooperation with OIG, established a team whose mission is to improve the accuracy of SSA's payments through an agencywide cooperative effort. Under this Task Force, multi-disciplined teams are established to study payment errors and develop recommendations to improve SSA's processes. These recommendations will focus on administrative and legislative changes to achieve program simplification. Also, when the SSI program was placed on the General Accounting Office's (GAO) high-risk list, SSA management formed the SSI Legislative Workgroup to develop legislative options to address GAO's concerns about the increasing level of SSI overpayments and the complexity of the program.

QUESTION #8: Please discuss SSA's capacity to root out fraudulent disability claims by those who are actually working while also collecting benefits. What can the Committee do to assist in combating this problem, which you allude to in your written testimony?

ANSWER: SSA currently has the capacity to root out fraudulent disability claims by those who are working while also collecting benefits if they should happen to work under their own name and SSN. However, the fraud is much more difficult to identify when the work is concealed by using a different SSN and/or name, or working in the underground economy.

An excellent source for identifying concealed work activity fraud is the Social Security Fraud Hotline. The Hotline received in a 7-month period over 3,000 allegations of concealed work activity by disabled beneficiaries and SSI recipients. However, OIG does not have the investigative resources to work these cases. The Subcommittees can help by supporting legislation to: 1) modify the Computer Matching and Privacy Protection Act of 1988 to expand the law enforcement exception to allow for computer matching of various data bases to identify fraud in SSA's disability program, and 2) consider unreported work activity for the first 9 months to be a trial work period instead of fraud if medical improvement is not expected. This change in law would reduce a significant workload and allow the Agency and the IG to concentrate on more productive areas.

Finally we have initiated pilot task forces with the Agency to combat fraudulent disability claims on the front-end of the process prior to the benefit effectuation. These pilots are being initiated in five States, including Georgia.

QUESTION #9: Why is there no penalty for SSI fraud? For example, in one case State officials encountered a patient who altered a doctor's report that she turned in to the Disability Determination Service (DDS). The DDS was suspicious of the report, so they called the doctor and discovered it had been altered by the patient. Absolutely nothing was done to punish this individual. Moreover, this individual turned right around and filed another claim. Shouldn't there be a penalty against individuals found guilty of fraud, for example by barring the from applying for SSI again for 2 years? What about some type of sanction or other penalty for fraud? How, specifically, would such a process work?

ANSWER: This example presented by the Subcommittee is typical of the mindset of the individuals that scam Federal and State benefits programs. These unscrupulous individuals know the ease with which they can obtain a medical disability assessment from unethical medical practitioners. They are usually supported by attorneys who successfully appeal denied cases. They also know the financial gain to be had from tax free dollars for the rest of their lives with no repercussions if they are caught. Such cases are usually declined by U.S. attorneys in lieu of more serious criminal cases. If prosecuted, they usually result in lenient sentences.

Legislation has been proposed for administrative sanctions which would prevent future payments for defined periods and this proposal should be a priority. Sanctions should also include the physicians and attorneys that support or encourage this activity. At a minimum, they should not be allowed to participate in the SSA claims process for a period of time.

QUESTION #10: Please discuss the implementation of the SSI changes involving prisoners. Are State and local institutions increasing the frequency with which they report prison rosters to SSA for matching against SSI rolls? How many prisoners have been removed from the SSI rolls so far? What are the savings attributable solely to the 1996 Welfare Reform Law provisions on this? What are the overall savings?

ANSWER:

State and Local Reporting

We have not yet conducted a follow-up audit to assess SSA's progress in implementing our prior recommendations and the legislative changes. However, we have participated in SSA's Prisoner Suspension Workgroup and have monitored SSA's progress. As of October 1997, SSA had made progress in implementing matching agreements with about 3,000 county or local jails and was tracking States' compliance with signed agreements. However, SSA is still struggling with enforcing the agreements. Even though State and local prisons sign agreements to provide data, SSA has no authority to enforce the agreements and no sanctions to use against nonreporters.

Prisoners removed from SSI and Savings related to Welfare Reform

According to SSA, most of the savings recognized to date related to prisoner suspensions are either from SSA's prior efforts or the changes SSA implemented as a result of our audits.

Overall Savings

SSA's Office of the Actuary has reported estimated reductions in OASDI and SSI payments due to the suspension of benefits to prisoners for Calendar Years 1995 - 2001 as follows (in millions):

	1995	1996	1997	1998	1999	2000	2001	Total 1995- 2001
OASDI	167	254	310	340	370	400	440	2,281
SSI	90	140	170	180	190	200	210	1,180
Total	257	394	480	520	560	600	650	3,461

Of the \$1.18 billion in SSI savings, SSA estimates that only \$80 million relates to the incentive payment provisions of the Welfare Reform Law.

QUESTION #11: The welfare reform law denies SSI benefits, among others, for fugitive felons and probation and parole violators. Is this prohibition working? Would creating the sort of incentive system we have set up for local officials to report prison rosters work in denying benefits for fugitive felons and probation and parole violators?

ANSWER:

Fugitive Felon Prohibition

To date, SSA has not identified or suspended benefits for high numbers of fugitive felons. The savings related to this provision will begin to materialize in future periods, but SSA is too early in its implementation to see significant savings.

There are several initiatives underway that OIG is participating in or has initiated. Our Office of Investigations has been working with SSA to set up a routine computer match with the Federal Bureau of Investigation's National Crime Information Center (NCIC) Wanted Person's file. This match will identify all fugitive felons receiving SSI benefits nationwide who are included in NCIC's Wanted Person's file. This file contains approximately 450,000 fugitive felons. We expect the initial match between this file and SSA's SSI rolls to take place by 1999.

In the interim, OIG and SSA have set up a Fugitive Felon Project, which includes contacting State law enforcement officials to allow for referral of fugitive felons to our investigators. When a referral is made from a law enforcement agency, Office of Investigations staff or SSA staff query SSA's records to determine whether the fugitive felon is receiving SSI benefits. If the fugitive is found to be receiving SSI benefits, the investigator will coordinate with the law enforcement agency to confirm the details of the warrant and attempt to apprehend the fugitive. The investigators will also notify SSA FO personnel about the case, so that needed payment actions are taken. This joint project between SSA and OIG relies mostly on paper referrals from law enforcement agencies and requires manual querying of SSA's benefit records. While this project has helped SSA to identify fugitives receiving SSI benefits, computer matching on a routine basis with State law enforcement agencies should identify additional fugitives receiving SSI benefits in a more cost-effective manner.

In addition, the Office of Audit conducted a review of State fugitive data sources to determine whether SSA is receiving all available computerized fugitive data for use in computer matching. A report is scheduled to be issued by August 1998 providing the results of our survey work. We surveyed the States to identify

fugitive files that are not currently provided to SSA or NCIC. Based on our survey of State fugitive data sources, SSA's planned match with NCIC's Wanted Persons file may not identify all fugitive felons receiving SSI benefits. As a result, we will proceed with further audit work to determine whether additional fugitive felons would be identified through matches with State law enforcement agencies. Specifically, we will enter into computer matching agreements with 10 States and match their fugitive files with SSA's records to determine whether SSA is paying benefits to fugitives who would not have been identified through SSA's matching with the NCIC's Wanted Person's file.

Incentive Payment Provisions for Fugitives

The implementation of fugitive suspensions is just beginning, so data on whether incentive payments would increase suspensions is not yet available. However, because the law enforcement agency receives a possible location for the fugitive being sought in return for providing data to SSA, there is already an incentive built into the process, although it is not a monetary incentive.

QUESTION #12: Can you discuss how more than 180 members of one family in Georgia could be collecting SSI benefits? What is being done, if anything, to collect payments that should not have been made in these cases? Does this case suggest that a broad review of the SSI program, especially for adults, is in order?

ANSWER: The Georgia family became the subject of the joint review after the Georgia DDS was notified by SSA's Atlanta Region of its concern that a family of SSI recipients may have been coached to malingering during consultative examinations (CE).

Information requests from reliable third party sources (e.g., State agencies that service the clients, teachers and former employers) were not being adequately solicited within the position structure of the DDS. Despite the large percentage of mental retardation and physical/emotional disorders, there was little educational evidence obtained to corroborate the alleged disabilities of adults or children. The DDS did not employ psychological testing designed to detect malingering, or use photos or other forms of identification to identify claimants attending CEs.

SSA relies on professional CE providers to act as gatekeepers of the Agency's program. SSA did not monitor or periodically evaluate the performance of CE providers for any patterns of potential program abuse when the independence of the CE provider was suspect. SSA did not require rotation of CE providers, which resulted in excessive reliance on a single professional. Discrepancies were found between the local psychologist's findings and the observations of other independent third parties. Additionally, claimants were not receiving treatment for their alleged psychological problems. Also, SSA did not review related family claims or capture suspect applicant information on individuals or families within its automated systems to alert future adjudicators to potential abuse.

At the time the Georgia family was receiving these benefits, SSA had not established sufficient fraud detection procedures. After a July 1996 meeting, field representatives suggested that SSA adopt a unified set of recommendations primarily dealing with the prevention and detection of disability fraud and penalties.

An SSA/OIG/OI investigation of the Georgia cases was conducted in consultation with the U.S. Attorney's office. Since the Government could not prove that recipients were not disabled at the time they applied for benefits, the cases resulting from the investigation were declined for prosecution. Therefore, SSA is not seeking recovery.

SSA/OIG/OA is concerned that the vulnerabilities noted during the Special Joint Vulnerability Review of the Supplemental Security Income Program (A-04-95-06020) may not be an isolated condition. SSA's Atlanta Region has identified the same scheme in another family in which the potential subjects reside along the Alabama/Georgia State line. Many of the claims were taken by telephone and the claimant was not observed, thereby leaving no way to determine if the person discussed on the telephone was, in fact, the individual who appeared for the CE. In addition, during our review, several SSA representatives provided information regarding the types of SSI vulnerabilities they had experienced. SSA FO personnel in California, Illinois, and Washington were of the opinion that the vulnerabilities noted in the SSA/OIG/OA report are not isolated.

Although the cases discussed were not always identical to the Georgia family, SSA FO personnel cited numerous cases in which claimants filed false disability claims with the assistance and coaching of physicians and translators. As in the Georgia family case, many of the applicants used common translators and physicians during the evaluations. One DDS currently has 130 cases of interpreter fraud under review. Another office estimated that in about 50 percent of the cases involving translators, applicant information is suspect. Consequently, we believe the results of our audit suggest that a broader review of the SSI program is warranted.

Agency initiatives underway address SSI high-risk issues. The OIG and SSA are working with the Congress to develop stronger anti-fraud legislation.



United States
General Accounting Office
Washington, D.C. 20548

Health, Education, and
Human Services Division

July 10, 1998

The Honorable Jim Bunning
Chairman, Subcommittee on
Social Security
Committee on Ways and Means
House of Representatives

Dear Mr. Bunning:

On March 12, 1998, we testified before the Subcommittee on the challenges the Social Security Administration faces today. The enclosed information responds to your follow-up questions that arose from the testimony.

If you have any questions or would like to discuss this information further please contact me on (202) 512-7215.

Sincerely yours,

A handwritten signature in cursive script that reads 'Cynthia M. Fagnoni'.

Cynthia M. Fagnoni
Director, Income Security Issues

Enclosure

ENCLOSURE

ENCLOSURE

This enclosure answers your questions that arose from our testimony before the Subcommittee on March 12, 1998. Our testimony was SSA's Management Challenges: Strong Leadership Needed to Turn Plans Into Timely, Meaningful Action (GAO/T-HEHS-98-113).

1. **You mention that SSA has begun to revitalize their training and development programs, beginning to address the fact that over the next 5 years, 40% of SSA managers will be eligible for retirement. Would you provide more detail as to the progress SSA is making and your assessment of how they are doing?**

One of the major challenges facing SSA is its aging workforce. More than 57 percent of SSA employees are over the age of 45 and, therefore, approaching retirement. In addition, many of those retiring are SSA's managers: over the next 5 years, 40 percent of SSA's staff at the middle management level and above will be eligible for retirement. In the past we have criticized SSA for not adequately preparing for the loss of its experienced workforce. SSA has acknowledged the importance of having skilled managers to prepare for the demands of the future and has taken steps to prepare the agency for the 21st century.

In March 1998, we reported that SSA has begun to revitalize its training and development programs. Those efforts include conducting a study to predict retirement attrition, developing a series of management development and training programs, and establishing performance measures and goals to ensure that staff receive the proper training and development. The following summary is an update on SSA's efforts meet those goals and to revitalize its training and development programs.

PROGRAM	DESCRIPTION	STATUS UPDATE
Senior Executive Service (SES) Candidate Development Program	A highly competitive developmental program that addresses leadership competencies at the senior executive service level. Participants will complete training and developmental assignments and will still compete competitively for SES positions.	Program has been announced and 37 selections were made in June 1998. The program will run through September 30, 2000.

PROGRAM	DESCRIPTION	STATUS UPDATE
Advanced Leadership Program	A 2-year developmental program that will identify 25 GS 13-14 candidates. Those selected will complete training and developmental assignments.	Announcement closed on May 29, 1998. Applications are being reviewed and will be assessed throughout the remainder of FY 1998. Selections will be made in the fall of 1998.
Leadership Development Program	A 2-year program for GS 9-12 employees. The program is similar to the Advanced Leadership Program.	Announcement will be made Fall of 1998, with selections anticipated in the Spring 1999.
Leadership Seminars	Interactive and hands-on face-to-face training for all current managers. The training will include customer focus, communication, mentoring/coaching and project management.	SSA is in the process of training 50 percent of their managers during FY 1998 and the other half will be trained in FY 1999.
Rotational Programs	Internal rotational programs at a variety of grade levels. Programs include developmental assignments and training.	The Office of Human Resources in cooperation with the OHR Partnership Council is designing a rotational program that will be announced later this year for GS 7-13 participants.

PROGRAM	DESCRIPTION	STATUS UPDATE
Retirement Wave Study	Study includes a predictive statistical model and further analyses to provide detailed retirement information on how many employees are eligible to retire, how many may retire, the year of retirement, including the component and occupations they will retire from.	Currently ongoing. Study is expected to be completed and released by August 1998.

While we have not conducted an in-depth review of SSA's efforts described above, it appears that the agency is taking concrete steps to better prepare for the impending loss of large portions of its experienced workforce. It is especially important that SSA sustains its momentum in ongoing employee training and career development in order to face its future challenges.

2. **At the request of this Subcommittee, and as part of your work in reviewing SSA's redesign of its disability process, you have paid particular attention to the testing of a position called the Disability Claims Manager. What is the status of the DCM position in SSA's current redesign plan, and what is your assessment of how and whether they should be moving forward to test the feasibility of this position?**

The Disability Claims Manager (DCM) position is one of eight key initiatives or changes that SSA has included in its current plans to redesign its disability claims process. The person in this position would eventually have total responsibility for managing and adjudicating disability claims, including authorizing payment of benefits. Under the existing system, an SSA claims representative determines the nonmedical eligibility for the program, and then a state disability examiner and a medical consultant determine medical eligibility. The medical determination is usually made without ever seeing the claimant in person. By creating a single point of contact for the customer and reducing hand-offs, the DCM position is expected to improve customer satisfaction and processing time, and reduce appeals.

Currently, the agency is training 210 staff as DCMs (100 state disability examiner staff and 110 federal employees) and 75 staff as support personnel. They will serve in 33 separate test sites (12 state sites and 21 federal sites). This training and early preparation is

expected to take 19 months. Then, in October of 1999, SSA will begin a formal 12-month test of the viability of the DCM position. If test results support the viability of the DCM position, SSA will then move into a third testing phase that incorporates additional redesigned, enabling features—such as a new computer software system—prior to making a final implementation decision on the DCM. The total testing time for all 3 phases could be as long as 5 years.

Our current review of SSA's efforts to redesign its disability claims process is ongoing, and we plan to issue a report on this subject in early 1999. However, we have already completed several studies that touched on the DCM position. In September 1996, we reported that SSA and state disability managers and staff have raised concerns about the feasibility of the position (SSA Disability Redesign: More Testing Needed to Assess Feasibility of New Claim Manager Position, GAO/HEHS-96-170, Sept. 27, 1996). At that time, we also expressed concern over the fact that the test would not evaluate all of the duties that may be required of the position. At this point, this is still true. SSA has moved forward with testing the DCM position in the current work environment, while it separately tests other initiatives that may eventually become part of the DCM's duties. SSA maintains, however, that it will incorporate these other initiatives into the 3-to-5-year DCM test, if the initiatives prove to be successful and SSA decides to implement them.

Furthermore, in December 1996, we expressed concern over both the scope and complexity of SSA's redesign plan, which were causing delays and could further undermine stakeholder support (SSA Disability Redesign: Focus Needed on Initiatives Most Crucial to Reducing Costs and Time, GAO/HEHS-97-20, Dec. 20, 1996). At that time, we recommended that SSA select those initiatives most crucial to the success of its redesign project and test them together as an integrated process at a few sites. SSA has begun to focus on fewer initiatives, however, it continues to conduct large-scale stand-alone tests of discreet initiatives, with one exception.¹ Testing milestones and implementation decisions for the stand-alone tests have slipped, and test results have been disappointing. While SSA appears to be applying some lessons learned from earlier tests to the DCM test, the agency continues to face considerable obstacles and risks for the DCM position, including likely stakeholder opposition and uncertainty about the duties of the position over time.

3. **Assuming the changes proposed in Commissioner Apfel's "Top to Bottom" review are faithfully carried out, will anyone be able to credibly claim that**

¹SSA is currently conducting one test, called the Full Process Model, that incorporates a number of different features in an integrated process.

lots of children have been wrongly removed from the SSI rolls as a result of the 1996 Welfare Reform laws?

Public Law 104-193, the 1996 law that overhauled portions of the nation's welfare system, made the eligibility criteria for SSI childhood disability benefits more restrictive. The law required SSA to redetermine the eligibility of child recipients potentially affected by the eligibility changes and to terminate benefits to those who did not meet the new criteria. Benefits were to terminate as of July 1, 1997 or the date of the redetermination, whichever was later. In February 1997, SSA issued interim final regulations to implement the law. Some individuals and organizations believe the new eligibility standard in these regulations is more severe than the law requires. We found, however, that the regulations are consistent with the law, and SSA's rationale for establishing the new level of severity was well supported (Supplemental Security Income: Review of SSA Regulations Governing Children's Eligibility for the Program, GAO/HEHS-97-220R, Sept. 16, 1997).

In December 1997, SSA issued a report, entitled Social Security: Review of SSA's Implementation of the New SSI Childhood Disability Legislation, on the results of its "top-to-bottom" review of the implementation of the new childhood disability regulations. The review was done to address concerns that children may have had their benefits terminated unfairly. The report describes several problems that SSA found in the handling of claims and the corrective action to be taken.

To remedy problems found in how cases involving children with mental retardation were adjudicated, SSA decided to rereview the claims of all children whose benefits were terminated or denied on the basis of mental retardation. It also conducted training in March 1998 to clarify how these claims should be adjudicated. The review also found problems with cases that were terminated because families did not cooperate with SSA in processing the redetermination, such as by failing to provide requested medical information or to take the child for a consultative examination. SSA found that in two-thirds of these terminations, all the required contacts had not been made or had not been documented in the file. To remedy this, SSA decided to rereview all cases terminated because of the families' failure to cooperate. Finally, the report identified weaknesses in notifying families of children whose benefits were terminated of their appeal rights. SSA decided to give families of children whose benefits were terminated but who did not appeal an additional 60-day period in which to appeal their terminations. Notices of this right, as well as the right to continue to receive benefits while the appeal is pending, were sent out in February 1998.

Because appeals are still pending, the number of children who will ultimately lose their SSI benefits as a result of changes in the 1996 welfare reform law is presently unknown. To maximize the likelihood that the children and their families are treated fairly under the new regulations, it will be important for SSA to continue to monitor the agency's progress

in implementing the regulations and remedying the problems identified in the top-to-bottom review. In addition, we will continue to monitor SSA's actions as part of our mandate to report to the Congress in 1999 on the impact of the new eligibility criteria on the SSI program.



United States
General Accounting Office
Washington, D.C. 20548

JUL 10 1998

Accounting and Information
Management Division

B-280537

July 10, 1998

The Honorable Jim Bunning
Chairman, Subcommittee on Social Security
Committee on Ways and Means
House of Representatives

Subject: Social Security Administration: Subcommittee Questions Concerning
Information Technology Challenges Facing the Commissioner

Dear Mr. Chairman:

This letter responds to your June 10, 1998, request that we provide answers to questions relating to our March 12, 1998, testimony.¹ During that testimony, we discussed the challenges that the Social Security Administration (SSA) faces in preparing its information systems for the new century and in implementing technology initiatives such as the Intelligent Workstation/Local Area Network (IWS/LAN). Your questions, along with our responses, follow.

1. *The Commissioner seems confident that Year 2000 readiness will be achieved. What are your views? Will they make it and are they responding to this critical issue with the sense of urgency and commitment needed?*

SSA continues to make good progress in its efforts to become Year 2000 compliant, maintaining its position as a leader among federal agencies in addressing this issue. Since our report last October,² the agency has reported a substantial increase in the number of mission-critical systems that it has renovated, tested, and implemented; and it has taken numerous other actions that demonstrate a sense of urgency and commitment to achieving readiness for the change of century.

¹Social Security Administration: Information Technology Challenges Facing the Commissioner (GAO/T-AIMD-98-109, March 12, 1998).

²Social Security Administration: Significant Progress Made in Year 2000 Effort, But Key Risks Remain (GAO/AIMD-98-6, October 22, 1997).

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SSA's work is not yet complete, however, and a number of essential tasks remain. SSA's success in achieving full compliance by the year 2000 will depend heavily on its ability to effectively complete these tasks.

Our report identified, and recommended actions for addressing three key areas of risk in SSA's Year 2000 program. One major risk concerned Year 2000 compliance of the 54 state Disability Determination Services (DDS) that help SSA administer the disability programs. The second major risk concerned data exchanges—ensuring that information obtained from other federal and state agencies and private businesses did not "corrupt" SSA's systems and data. Third, such risks were compounded by the lack of contingency plans to ensure the continuity of major business processes in the event of systems failure. SSA agreed with all of our recommendations and actions to implement them have either been taken or are under way.

Regarding state DDSs, SSA has enhanced its monitoring and oversight by establishing a full-time DDS project team, designating project managers and coordinators, and requesting biweekly status reports. In addition, SSA stated that all DDSs have now submitted plans that identify specific milestones, resources, and schedules for completing their Year 2000 conversion tasks. The agency reported that, as of June 30, 1998, 27 of the state DDS systems had been renovated, tested, and implemented.

Nonetheless, additional tasks must be completed. For example, approximately one-half of the state DDS systems must still be renovated, tested, and certified Year 2000-compliant. SSA has stated that these tasks are scheduled to be completed by December 1998. However, some DDSs are relying on SSA's IWS/LAN to correct Year 2000 deficiencies in their hardware.³ As our recent report on IWS/LAN discussed,⁴ DDSs' concerns about how SSA plans to manage the operation and maintenance of IWS/LAN equipment in their offices threaten to delay this initiative. Any delays in implementing IWS/LAN equipment in the DDS offices could affect these offices' progress in becoming compliant. SSA recently stated that it had identified the equipment that is not Year 2000 compliant in each DDS and was developing a strategy for correcting the deficiencies.

³As of June 15, 1998, SSA reported that 39 states had hardware that was not Year 2000 compliant.

⁴Social Security Administration: Technical and Performance Challenges Threaten Progress of Modernization (GAO/AIMD-98-136, June 19, 1998).

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Regarding data exchanges, SSA has now identified its external exchanges and is coordinating with its business partners.⁵ However, SSA reports that about 30 percent of these data exchanges must still be made compliant, and SSA's Assistant Deputy Commissioner for Systems recently stated that the remaining exchanges will likely be the most difficult to address. SSA's success in dealing with its external data exchanges depends heavily on the progress of its business partners in correcting Year 2000 deficiencies in their systems. For example, SSA relies on the Department of the Treasury's Financial Management Service (FMS) to disburse benefits payments each month. SSA stated that it is working closely with Treasury to ensure that these payments will be on time. However, as we testified in May before the House Ways and Means Subcommittee on Oversight, FMS was falling seriously behind schedule in converting some of its systems.⁶

Turning to contingency planning, in accordance with our guidance,⁷ SSA has developed a high-level overall plan for business continuity. This plan presents an effective high-level strategy for mitigating risks associated with the Year 2000. However, it does not include local contingency plans for SSA's core business processes. As discussed in our guide, such plans are critical for documenting the resources, staff roles, timetables, and business resumption procedures to be used in the event that the agency's business processes are disrupted by a Year 2000 failure. These plans should not be limited to the Year 2000-induced failures of SSA's internal systems, but should also consider the potential Year 2000 failures of its business partners and infrastructure service providers. SSA stated that it has begun developing its local contingency plans, and expects to have some of the plans completed by September 1998.

Finally, SSA must complete the critical tasks of testing and certifying its systems for Year 2000 compliance. This includes conducting essential end-to-end testing of multiple systems that have individually been deemed Year 2000

⁵In its Year 2000 monthly report for June 1998, SSA stated that it has approximately 4,800 data exchanges, of which about 2,000 are with external agencies, states, or third parties. Approximately 300 of the external exchanges provide data that updates SSA's master files, generates payments, or otherwise affects payments or benefit eligibility.

⁶Year 2000 Computing Crisis: Continuing Risks of Disruption to Social Security, Medicare, and Treasury Programs (GAO/T-AIMD-98-161, May 7, 1998).

⁷Year 2000 Computing Crisis: Business Continuity and Contingency Planning, Exposure Draft (GAO/AIMD-10.1.19, March 1998).

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compliant. As discussed in our recently issued testing guide,⁵ end-to-end testing seeks to ensure that systems collectively supporting a core business function or area operate as intended. Without such testing, systems individually deemed as compliant may not work as expected when linked together in an operational environment. These systems include not only those owned and managed by the agency, but also the external systems with which they interface.

As requested by your Subcommittee and the Senate Special Committee on Aging, we are continuing to monitor SSA's implementation of our recommendations and additional actions that it is taking to achieve Year 2000 compliance. This includes assessing SSA's plans and actions to ensure that its systems are fully tested.

2. *Is it commonplace for government contracts which provide for the purchase of computers over a long period of time, [to] not have refreshment clauses--in other words, a clause which requires the agency to obtain current technology as the equipment is rolled out? How did this happen? In your view will 100 megahertz computers be able to run all the software SSA plans to install?*

A technology refreshment clause serves to ensure that the scope of a contract, as defined by its specifications, is sufficient to include technology upgrades that an agency may need in the future. Such a clause typically permits (but does not require) the contractor to propose, or the government to solicit, items that are technologically superior to what is called for under the contract, thereby preventing the delivery of obsolete equipment.

Evidence gathered during our review has shown that including technology refreshment clauses in long-term information technology (IT) contracts is common among federal departments and agencies. For example, we are aware of such clauses in contracts awarded by the Department of Defense and the National Aeronautics and Space Administration.

Although SSA did not include a technology refreshment clause for IWS/LAN, the contract does include two other clauses that would allow the agency to replace equipment originally specified in the contract with upgraded technology. First, the contract incorporates a technology substitution clause, allowing the contractor to substitute products for those that may no longer be available (due to the government's requirement for equipment and software deliveries extending over several years, perhaps exceeding the technological life of the

⁵Year 2000 Computing Crisis: A Testing Guide. Exposure Draft (GAO/AIMD-10.1.21, June 1998).

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products provided), provided the product substituted (1) meets or exceeds the specifications of the product previously supplied or the mandatory technical requirements of the contract, whichever is greater; and (2) costs no more than the product previously supplied.

Second, in accordance with federal requirements,⁹ the IWS/LAN contract contains the standard "Changes" clause permitting a federal agency to unilaterally change its requirements, provided the change is within the scope of the original contract.

SSA has stated that its 100-megahertz workstations meet its current needs. However, it is uncertain whether these workstations will adequately support all of the software that the agency may acquire in the future. SSA has encountered problems and delays with the first major client/server software application that it is developing and testing to determine future hardware and software requirements for IWS/LAN. Until SSA determines its requirements over the life of the IWS/LAN workstations, it will not know whether the 100-megahertz workstations will meet all its needs.

3. *In your testimony, you mention that the state agencies who make the disability determinations are having some real concerns about the installation of this equipment. Can you provide more detail as to what their concerns are and whether you concur that these concerns are justified?*

Administrators and staff in 10 DDS offices that we visited expressed concern about the effectiveness of SSA's network management and control over IWS/LAN operations in their offices, and dissatisfaction with the service and technical support received from the contractor following the installation of IWS/LAN. For example, DDS representatives in 7 of the 10 offices expressed concern that with SSA managing their networks and operations, DDSs can no longer make changes or fixes to their equipment locally and, instead, must rely on SSA for system changes or network maintenance. In addition, 8 of the 10 DDSs reported that under this arrangement, the IWS/LAN contractor had been untimely in responding to certain of their requests for service, resulting in disruptions to their operations.

In recent discussions with DDS officials, including the President of the National Council of Disability Determination Directors and the Chairperson of the DDS Infrastructure Committee (which is charged with representing DDSs on hardware and network matters), we were informed that while these concerns

⁹See 48 C.F.R. Section 43.205 and the clauses referenced therein.

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still exist, SSA is now working closely with the DDSs to resolve them. For example, SSA has proposed an alternative capability to provide DDSs with increased network control. Among other things, the DDSs would be able to customize some areas of network control, such as Login Scripts,¹⁰ while still adhering to SSA's established network architecture and security policies. However, the officials noted that this proposal does not address several other issues that are of concern to the DDSs, such as the need to provide DDSs with centralized print management capabilities. For example, the officials stated that currently, print instructions or commands must be handled separately for each DDS office. However, a centralized capability would allow the instructions or commands to be managed for all offices from a single point of control. In addition, the officials stated that SSA and the DDSs must still test the overall effectiveness of this proposal.

Regarding IWS/LAN equipment maintenance, SSA has been working with the DDSs to streamline the maintenance process and to work out agreements that would allow the DDSs to obtain IWS/LAN maintenance service locally. SSA has already reached such an agreement with the Wisconsin DDS, and the administrator of that office has expressed satisfaction with the arrangement. However, the DDS officials stated that while SSA's Associate Commissioner for the Office of Telecommunications and Systems Operations and his staff continue to work with the DDSs on IWS/LAN maintenance service, more work needs to be done to address this issue throughout the DDS community.

In our view, the DDSs have valid concerns with SSA's network management control and maintenance of the IWS/LAN. If not resolved, these issues could threaten the continued progress and success of the IWS/LAN initiative, and ultimately, SSA's success in modernizing its computer systems and redesigning work processes to better serve an increasing beneficiary population and achieve improvements in productivity.

4. *How concerned should we be about SSA's ability to effectively develop the software that will be needed to support their operations into the next century?*

There should be significant concern about SSA's ability to effectively develop the software that will be needed to support its operations into the next century. Software development is a critical component of the agency's ongoing systems modernization efforts. SSA's plans call for designing and developing a new generation of software to operate on the IWS/LAN to support redesigned work

¹⁰A Login Script is the system or user profile associated with a particular job description that allows the user to access information on the network.

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processes in a client/server environment. Yet, as we noted in our January 1998 report,¹¹ SSA had weaknesses in its existing processes for developing and maintaining software. Moreover, as a traditionally mainframe-oriented agency, SSA has lacked experience in developing and using client/server software.

SSA has recognized the shortfalls in its capability and has acted to improve the processes and methods that it uses to develop software. For example, it has (1) launched a formal software process improvement program, (2) acquired assistance from the Software Engineering Institute¹² in assessing its strengths and weaknesses and in assisting with improvements, and (3) established management groups to oversee software process improvement activities.

However, we found that SSA's improvement program lacked specific, quantifiable goals, and meaningful baseline data. As a result, SSA cannot determine whether its improvement efforts are effective or whether its goals are being achieved. We, therefore, recommended that SSA develop and implement plans (1) articulating a strategy and time frames for developing baseline data, (2) identifying specific goals, and (3) monitoring progress toward achieving those goals. The agency agreed with our recommendations and reported that it has begun implementing these steps.

Even as SSA works to improve its software development capability, however, it continues to develop critical software relying on existing weak processes. For example, despite acknowledging weaknesses in its ability to develop client/server software, SSA is, nonetheless, developing the first major client/server software application that it intends to operate on IWS/LAN to support the redesigned disability process. Given the long-term nature of the software process improvement efforts—SSA is not scheduled to complete implementation of its improved processes until June 2000—the Deputy Commissioner for Systems stated that the agency is not likely to incorporate improved processes in its current development of this software.

SSA has now encountered performance problems and delays in developing this software. In particular, the reported productivity of claims representatives in one of SSA's field offices decreased during tests of an early release of the software. In response to the problems, SSA tasked Booz-Allen and Hamilton to

¹¹Social Security Administration: Software Development Process Improvements Started But Work Remains (GAO/AIMD-98-39, January 28, 1998).

¹²The Software Engineering Institute is a nationally recognized, federally funded research and development center established at Carnegie Mellon University in Pittsburgh, Pennsylvania, to address software development issues.

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evaluate the software development project and recommend options for corrective action, including terminating the in-house effort and hiring a software development contractor. SSA stated that it expects to receive the recommendations from Booz-Allen and Hamilton by the end of this month.

5. *This subcommittee has asked GAO to monitor SSA's Personal Earnings and Benefit Estimate on-line initiative. Obtaining PEBES through the internet was suspended. What are SSA's plans on this activity today, and what is your assessment in terms of how they are proceeding?*

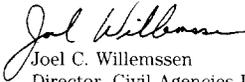
According to the Deputy Commissioner for Systems, implementation of the on-line Personal Earnings and Benefit Estimate Statement (PEBES) system remains suspended and the agency is continuing to evaluate alternatives for protecting the privacy and security of sensitive information that would be transmitted via the Internet. He stated that the Commissioner has not yet determined when a modified on-line PEBES system will be implemented. Because privacy and security are significant issues for the on-line PEBES system, it is vital that SSA identify and implement effective technical safeguards.

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In responding to these questions, we reviewed and analyzed documents describing the status of SSA's Year 2000 compliance and software process improvement efforts. We also reviewed documentation on the IWS/LAN and PEBES initiatives and discussed with the Deputy Commissioner for Systems and his relevant staff, actions that SSA is taking on these initiatives. We conducted our work from June 15 through July 10, 1998, in accordance with generally accepted government auditing standards.

We are sending copies of this letter to the Commissioner of Social Security and other interested parties. Copies will also be made available to others upon request. If you have any questions regarding this letter, please contact me at (202) 512-6253 or Valerie Melvin, Assistant Director, at (202) 512-6304. We can also be reached by e-mail at willemsenj.aimd@gao.gov and melvinv.aimd@gao.gov, respectively.

Sincerely yours,



Joel C. Willemsen
Director, Civil Agencies Information Systems

(511255)

Chairman BUNNING. I have one question for Ms. Ross. In your view, is Social Security Administration taking the fullest advantage of the expanded statutory authority Congress gave it in 1994, and is SSA operating independently to the fullest extent that it could really operate independently? I want to make sure that we get an answer of your opinion on independence of the agency because that was the full legislative intent when we passed the law in 1994.

Ms. ROSS. You'll have to forgive me, Mr. Chairman. I didn't go back and review some of our earlier reports on this, but I'll do the best I can and supply anything else for the record.

We did a study at the time that SSA became an independent agency, and at that time we tried to look at what the law said and what the law simply permitted. Our understanding of the law—this is GAO's lawyers, not just me—was that the way the Social Security Administration is operating now is appropriate, given the way the law was formulated and precisely what it said. That was our conclusion at the time three years ago, and we haven't had any occasion to re-examine this issue or think that we would change our opinion.

Chairman BUNNING. In other words, if I asked you to go back and do an examination now that would be an updated version of whether you think they are or not, you couldn't give us a re-evaluation of where they're at now?

Ms. ROSS. We'd be happy to give you a reappraisal. I don't know of any events that are different now, but we would be happy to look at it again—especially I am volunteering the services of the GAO lawyers in this regard.

Chairman BUNNING. The GAO lawyers. Can we keep them out? [Laughter.]

Thank you all for your testimony.

All right, Clay, go ahead.

Chairman SHAW. I don't have a question. I just wanted to just bring something to the attention of the Subcommittees. That figure that was given in excess of \$3 billion that's being saved on the prisoner program and not sending checks into the jailhouse, that was scored by the OMB and CBO as a savings of about \$100 million. So the success here has been really incredible.

I think it was Mr. Herger on my subcommittee who brought this to the attention of the—committee, and I think Mr. Collins had a sheriff that testified in this area. I think that the vigilance of the Congress here has really paid off far beyond the expectations of bean counters.

Mr. WILLIAMS. Thank you, sir. We're about to launch the fugitive effort, and we think that's going to have a big impact, too. That's gratifying to hear. Thank you.

Chairman BUNNING. Jim?

Mr. MCCREERY. Just generally, Mr. Chairman, based on the astounding results of just this one foray into stopping abuse in the SSI system, Ms. Ross and Mr. Williams, are you of the opinion that an overall review of the SSI program, particularly for adults, is in order, particularly looking at fraud and abuse in the program?

Mr. WILLIAMS. My office intends, with Ms. Gardiner and some of the investigators, we intend to look at each benefit that is offered by social security and focus on the points at which we are vulner-

able to fraud, and we think that kind of look is appropriate. We were impressed, too, by how much was accomplished and by, how much good there is to be done by such a fraud vulnerability study. We intend to then convert that into an aggressive task force that looks at how to plug those holes as we identify them in various benefit programs. Of course, disability is the highest dollar program at risk and that's probably where we'll begin.

Mr. MCCREY. And we haven't even mentioned the Georgia case today, but we're all aware of that shining example of fraud in the SSI program.

Ms. Ross, I know your agency has identified SSI as a high-risk program.

Ms. ROSS. We have.

Mr. MCCREY. So I assume you agree that an overall review is in order?

Ms. ROSS. Well, we do, and I'd like to take a minute or two to explain. For several years, we've been doing these pieces of investigation related to SSI—prisoners, not reporting that recipients are in nursing homes, a variety of things of that sort. But at some point we decided that there was something else going on here, and that we were not helping to solve the problem by looking at it piecemeal. We've now been engaging in a study of why it is that this continues to happen in the various parts of the Social Security Administration. Why does SSI turn out to be so troubled? We've been developing a notion of a couple of root causes, which is what I think SSA has to go after.

First of all, we see that the agency has been reactive in terms of SSI and not proactive. They don't initiate policy. They haven't provided legislative proposals. They simply operate the program. But possibly more importantly, they treat SSI as if it were an entitlement program. They treat it pretty much the same way they treat the OASI and DI programs. They operate as if SSI were an entitlement. They aren't nearly vigilant enough considering it's a welfare means-tested program.

We're expecting, based on the promises that we heard today and in SSA's strategic plan that they will have a comprehensive plan that starts to get at not just these little pieces of a problem here and a problem there, which I grant adds up to a lot of money, but that they somehow changed the way they operate the program fundamentally, so they stop having all these little things for us to run after.

Chairman BUNNING. That just emphasizes the need for oversight, and the need for your new review of SSA and where they're at, because that means that they're not independent and they're not acting independently because of the oversight that the administration puts into the SSA and SSI and SSDI. If anybody's interested in a new program for SSDI, you ought to look at the bill we introduced yesterday. It is going to save approximately, for every 1 percent of the disability people that we get back on return to work, \$3 billion for each 1 percent of return to work. So that's the estimate, Clay.

Thank you all for your testimony. We appreciate it.

[Whereupon, at 12:29 p.m., the Subcommittees adjourned subject to the call of their Chairs.]

[Submissions for the record follow:]

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**HEARING ON THE CHALLENGES FACING THE NEW
COMMISSIONER OF SOCIAL SECURITY**

**STATEMENT BY STANFORD G. ROSS, CHAIR
SOCIAL SECURITY ADVISORY BOARD**

**BEFORE THE
SUBCOMMITTEE ON SOCIAL SECURITY AND
SUBCOMMITTEE ON HUMAN RESOURCES**

MARCH 12, 1998

**TESTIMONY OF STANFORD G. ROSS, CHAIR,
SOCIAL SECURITY ADVISORY BOARD**

March 12, 1998

Chairman Bunning, Chairman Shaw, and Members of the Social Security and Human Resources Subcommittees, on behalf of the Social Security Advisory Board I want to commend you for the thoughtful attention you are giving to the Social Security and Supplemental Security Income programs, and to how the Social Security Administration performs its vital assignment of administering programs that touch the lives of nearly every American family.

The Board's mandate ranges from analyzing and making recommendations on policy issues, such as Social Security financing and disability, to helping the agency improve its service to the public. Thus, we are well aware of the importance of your oversight role, and the contribution you are making. This hearing on the "Challenges Facing the New Commissioner of the Social Security Administration" provides an opportunity for the Congress and the public to learn more about the important issues that Commissioner Apfel will be confronted with in the months and years to come. The Social Security Advisory Board is pleased to have an opportunity to share its views with you.

The Mandate of the Social Security Advisory Board

Creation of an independent bipartisan Advisory Board was an integral part of the 1994 legislation that established the Social Security Administration as an independent agency. By providing for a standing Board, the Congress recognized the value of having a permanent institution to which the Congress, the President, and the Commissioner can turn for bipartisan advice and assistance.

If the leadership structure that the Congress created for Social Security is to operate effectively, a good working relationship between the Board and the agency is essential. We believe that the relationship between the Board and Commissioner Apfel is off to a good start. Communication between the Board and the Commissioner is open and constructive. We have mutual interests and concerns which we anticipate addressing cooperatively. The Commissioner is meeting with the Board and sharing his views and information with us. We are working to develop ways in which the Board as an institution can be supportive of the agency as an institution over the long term.

We strongly believe in a bipartisan approach to Social Security. All three of the reports the Board has issued to date were issued unanimously. They reflect the bipartisan spirit with which the Board has undertaken its work, and which we expect to continue.

The Board's first reports are in accord with the mandate the Congress gave the Board in the Social Security Independence and Program Improvements Act of 1994.

That statute directs the Board to make recommendations with respect to the quality of service that SSA provides to the public; the policies and regulations of the OASDI and SSI programs; a long-range research and program evaluation plan for SSA; and policies that will ensure the solvency of the OASDI programs. Among its other responsibilities, the Board is also directed to increase public understanding of Social Security, and make recommendations relating to the coordination of the OASDI and SSI programs with the Medicare and Medicaid programs.

This is a tall order for a part-time Board that by statute is directed to meet not less than 4 times a year, and which has experienced several vacancies since it began its work in spring of 1996, including two vacancies at the present time. Because of the importance and complexity of the mandate given the Board, the present members have generally elected to meet monthly. The Board has undertaken an ambitious agenda of work, as is indicated in this testimony.

The Board chose the topics for its first three reports with the objective of helping the first confirmed Commissioner of an independent SSA to identify priority areas needing attention as he assumed his leadership responsibilities. The reports address areas -- policy development, research capacity, and building public understanding of Social Security -- that we believe are vitally important to the agency's mission. We are pleased that SSA included improvements in these areas among the top five goals in its new Strategic Plan.

Policy Development

In its first report, issued in March 1997, the Board stated that if the Social Security Administration is to have a role in the development of Social Security and Supplemental Security Income policy, the Commissioner must place a high priority on policy, research, and program evaluation.

When SSA became independent in March 1995, it took on new responsibility for policy development, a responsibility that it formerly shared with the Department of Health and Human Services. Although other government agencies, such as the Department of the Treasury, have an interest in Social Security and the Social Security Administration should coordinate its work with them, SSA is unique in the program knowledge and data that it can bring to bear on Social Security policy issues. We believe the agency should direct its resources so as to be able to provide policy makers and the public with the information and analysis they need to make sound policy decisions in such important areas as long-term solvency and the future of the disability programs.

SSA will not be able to do this unless it significantly improves its present policy, research, and program evaluation capabilities. The policy and research staffs have been disproportionately affected by downsizing over the last couple of decades. The agency needs to move quickly to recruit highly qualified and experienced staff from outside the agency, and to begin to develop staff within the agency.

In our report we recommend reorganizing the policy function by having the head of SSA's policy office report directly to the Commissioner, and giving that individual clear responsibility for coordinating the agency's policy functions. We also recommend that the agency consider combining the policy and research offices, which will help the agency in attracting and retaining highly qualified staff, and will assure that the research and program evaluation agenda is closely tied to policy needs.

Increasing Public Understanding of Social Security

We believe that increasing public understanding of Social Security should be another of the agency's top priorities. In September of last year the Board issued a report that called upon the Social Security Administration to take a far more active role in informing the public about Social Security and how it fits into an individual worker's long-term financial planning.

The Board's report raises concerns about the adequacy of staffing for public information responsibilities both in Baltimore and in SSA's field offices. The ability of local office personnel to communicate with and provide information to people in communities around the Nation has been seriously limited by reductions in staffing and changes in priorities. We think that SSA needs to make sure that both its National Office of Communications and its field offices have staff with appropriate experience and training to carry out their public information activities.

We have been following closely the implementation by SSA of the requirement passed by the Congress that all workers age 25 and over be sent an annual earnings and benefit estimate statement (the PEBES), beginning in the year 2000. If the PEBES is well done, it can enhance public understanding and confidence in Social Security, but the agency needs to pay close attention to its readability, accuracy, and objectivity. We believe the PEBES should be one of the highest priorities of the agency, and that it must receive the most careful, high level attention with respect to content and design.

Strengthening Research and Program Evaluation

The Board's third and most recent report, issued in January of this year, responds to the statutory requirement that the Board make recommendations with respect to a long-term research plan for SSA. In this report, we outline what we believe should be the major emphases of Social Security research in the years to come. We also state what we believe SSA needs to do to make this research possible.

We recommend that the agency, in consultation with the Congress, other government agencies, the Advisory Board, and others, develop a comprehensive long-range research and program evaluation plan for the Social Security and Supplemental Security Income programs. This plan should reflect issues of concern to policy makers in order to ensure that it produces the data and information that are needed by those who develop or respond to proposals for program changes.

We advise that the plan reflect broad research needs, going beyond what SSA itself expects to do. It should define priorities, setting out what will be done within SSA, what SSA will do to promote and encourage research by researchers outside of government, and how SSA's research will be coordinated with the research of other government agencies.

We recommend significantly strengthening SSA's research and program evaluation staff so that it can provide the kind of credible and objective information that policy makers need. We also recommend that the agency take steps to encourage research outside the agency. Both policy makers and SSA itself can benefit from the work of outside researchers who are not constrained by institutional assumptions, and who can provide a diversity of views that may not be reflected within the agency.

We know that implementing the Board's recommendations will not be easy. It will require seeking out highly qualified staff who can carry them out, and it will require allocating additional resources in an era of spending constraint.

But this is a time when the Nation is beginning a serious discussion about the future of Social Security. The Commissioner and the agency have a responsibility to participate actively in that discussion. We believe that, if implemented, the recommendations we have made for policy, research, and increasing public understanding will help fulfill that responsibility.

Service to the Public; Disability

Looking ahead, the Board is currently working on two other issues that are important to Social Security: quality of service to the public and disability.

Historically, the Social Security Administration has had a strong record of providing high quality service, and it is essential that it continue to do so. However, the large-scale downsizing of SSA staff that has occurred in the last two decades has touched all of the agency's operations, including the operations of field offices. The agency has also been affected by the government-wide effort to reduce the number of managers. Changes such as these have no doubt contributed to improved efficiency and productivity. But payment accuracy, program integrity, and high quality service for individuals who call or visit a Social Security office are also critical objectives. We will be looking at how well these objectives are being met. In doing so, we will continue to consult with the Inspector General and the General Accounting Office, with whom we have established good communications.

The Board is also looking at SSA's efforts to redesign the disability determination process to make it more efficient from the standpoint of the agency and more understandable and equitable from the standpoint of the public. The Commissioner is faced with difficult decisions in this area which will have long-lasting consequences for the future of the program. Another important area, which the Subcommittee on Social

Security has been giving close attention to as well, is increasing employment for disabled individuals.

The Board is interested in the SSI disability program for children, a focus of attention for the Subcommittee on Human Resources, and has recommended that SSA make every reasonable effort to ensure that it will be able to provide policy makers with objective information about the effects of the changes in that program that were made by legislation in 1996. We have recommended that SSA implement a comprehensive research plan that will enable the agency to track over time what happens to a sample of the children who are removed from the SSI rolls.

The Future of Social Security

Addressing these issues will require the close personal attention of the Commissioner. At the same time, the Commissioner will need to be both a participant and a leader in the many difficult and complex decisions that must be made to assure retirement security for Americans in the decades ahead. The information and advice that he and the agency are able to provide can contribute in an important way to the outcome of the discussion that the Nation is now beginning on the future of Social Security. The Board is exploring ways that it can appropriately relate to that discussion, and how it can contribute to better understanding of the issues that are involved.

In sum, it is a challenging time to be the first confirmed Commissioner of an independent Social Security Administration. We are committed to giving Commissioner Apfel and the agency our best efforts to help them with their mission, and we look forward to working with them on the many issues that they face in the months and years to come. The Board is a new institution, but it is one that we hope will prove able over the years ahead to help both the Congress and the Executive Branch in fulfilling their responsibilities with respect to the Social Security and Supplemental Security Income programs.

**MEMBERS OF THE SOCIAL SECURITY
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Term of office: January 1998 to September 2003

House Committee on Ways and Means Joint Subcommittee Hearings on Social Security
Statement of D. C. Daniel, Jr.

Honorable Chairmen and Members of the Social Security and Human Resources Subcommittees:

I am D. C. Daniel, Jr. My nickname is Jim. I am a lawyer in private practice in Murfreesboro, Tennessee. I was born in Corbin, Kentucky and have numerous cousins in that area. For over twenty years I have been practicing Social Security Disability Law at both the Administrative and Federal Courts in Tennessee. I am a graduate of the George Washington University Law School. I serve on the Board of the Legal Aid Society of Middle Tennessee by appointment of the President of a two-county Bar Association.

My late father, D. C. Daniel, was a former Congressional staffer, a trial lawyer with the Federal Trade Commission, Secretary and Executive Director of the Federal Trade Commission, founded and operated a trade association for 8 years, and concluded his public career as an Administrative Law Judge with the Social Security Administration. Dad always emphasized to my brother and me that the public business should be the concern of every citizen.

I belong to and support the National Organization of Social Security Claimants' Representatives which is a fine organization promoting high standards of professionalism. I commend their presentations to you as most worthy of consideration.

The views I express to the Committees today are my own. I do not purport to speak for any particular organization or group of people. There may be overlap with the views of others, but whether there is or not, my views are my own.

I am committed to the proposition that the Social Security disability programs should be preserved in some form. We need the safety net for our sick and disabled. It is part of the glue that holds our Nation together. I do not envy you having to figure out how to save the Social Security program as a whole and make it solvent.

My focus is more limited. I am concerned with effective representation of our citizens in controversy with the Social Security Administration with regard to eligibility for disability insurance benefits and supplemental security income benefits.

With the downgrading of the Legal Services Corporation and the greatly reduced funding of local legal aid agencies such as our Legal Aid Society of Middle Tennessee, the problem of securing effective representation of claimants for disability benefits has become much more acute.

I want to see us keep the promise of the Pledge of Allegiance that we are "One Nation under God, indivisible with liberty and justice for all." If we are to keep this from becoming mere empty rhetoric, we must assure ourselves that effective representation in administrative proceedings is available to all.

I decided to submit this statement because I recently learned that a further effort is about to be made to undermine effective representation of claimants in Social Security disability proceedings.

There is a wide gap between the number of Title II disability claimants who are represented by attorneys and the number of SSI claimants who are represented by attorneys. One recent figure I read said about 79 percent of Title II claimants are represented by counsel at hearings before administrative law judges while only about 40 percent of SSI claimants are so represented.

Why is this?

I suggest it is because Social Security benefits and SSI benefits are protected by law from attachment, garnishment, levy or seizure by the provisions of 42 U.S.C. § 407. Therefore, unless there is specific legislation to withhold attorney fees before benefits are paid to the claimant, there is no way an attorney can collect his fee.

Such withholding legislation exists as to Title II cases, but not as to SSI cases under Title XVI. This needs to be corrected by withholding from SSI benefits or, in the alternative make the provisions of the Equal Access to Justice Act applicable to administrative proceedings in successful SSI cases. I feel withholding and direct payment to be the better remedy. It is easier to administer and would fit into the present payment system. I submit this is worthy of your careful consideration. SSI claimants should not be second class citizens just because they are poor.

I was troubled to learn that imposition of so-called "user's fees" upon attorneys for successful claimants in Social Security disability cases has been recommended and is under consideration. The "success penalties" would be \$40.00 for legally required approval and authorization of attorney fees and \$165.00 for direct payment of attorneys by SSA from past-due benefits. I think I can show you a more reasonable alternative to this proposal.

I understand that someone may be preparing to introduce a bill to put such taxes disguised as "user fees" into effect. It must not be allowed to pass. It is bad for the country and bad for the claimants. It is but another piece of ill-advised legislation hastily concocted purportedly to save money while curtailing government services which have traditionally been part of the tax-supported government functions for many years.

I oppose such "success penalty" taxes as a matter of principle. I believe them to be un-American. They are in conflict with basic principles of justice which transcend the monetary aspects of this situation. The loser, not the winner, should pay the cost of making payment of benefits wrongfully withheld.

Let me explain: Insurance companies cannot charge a user's fee for making direct payment to attorneys with two-party checks when they lose or settle civil actions. Individuals against whom judgments are entered cannot do so. Social Security should not be permitted to do so, either.

The proposal to let SSA do so will further erode the availability of representation to the disabled and poor of our society. In this era of rampant greed this will be toxic in its effect on our society.

The proposal for a \$40.00 user's fee for approving fees in successful Social Security cases and the proposal for a \$165.00 user's fee for making direct payment of attorney fees are totally inappropriate. The stated reason for this proposal is to recover from successful claimants' attorneys the cost of processing the fee approval and direct payment of fees.

Call it what you will, it really is a tax — designed to penalize attorneys for their success. By their success in proving that benefits have been wrongfully denied, the attorneys have made the bureaucrats have to work. This is the way the bureaucrats get even.

Keep in mind that the reason these attorneys fees are being paid is that the government wrongly denied benefits to which successful claimants were entitled.

What is being proposed is best characterized as a "success penalty" or a "penalty for securing justice." The very concept is Un-American. It offends our Anglo-American tradition of fair play as developed and implemented in our growth as a Nation.

How would you like it if Congress' salaries were subject to a \$40.00 user's fee for some payment officer's approval of your pay check and then you were charged \$165.00 each time your paycheck was issued?

We in the private sector already work for several months each year just to pay our taxes.

The Agency is the one who is in the wrong when I win a Social Security disability case for my client. Therefore, the government should pay. Any cost of making the necessary payments of attorney fees in Social Security disability cases should be recognized, as it presently is, as a cost of carrying out the governmental mission using appropriated funds, not a so-called user's fee which really is a "penalty for securing justice." or a "success tax."

The attorney has won a case establishing entitlement to benefits which the claimant otherwise would not have received. This proposal to impose so-called "user fees" is, in effect, an attempt to cause attorneys to drop out of doing these cases. If that happens, those persons wrongly deprived of benefits will not be able to secure representation by competent attorneys. Their misery will be compounded by arbitrary decisions denying benefits to which they should be entitled.

The end result will be a loss of effective redress to those citizens wrongfully deprived of Social Security disability and SSI benefits. Once the attorneys have been driven out, the bureaucrats will get to go back to breaking their own rules with impunity. No one will be there representing claimants to call their hand. This is social poison.

My proposal to fix the problem of use of time and resources to approve and pay attorney fees is this:

Congress should:

Legislatively declare that a 25 percent contingent fee is reasonable in both Social Security and SSI cases, where a fund is created by an award of past-due benefits, thus eliminating the need for fee approval. Thus many fee approvers can be released for other work.

Eliminate the Social Security fee approval process inside the Agency altogether by appropriate legislation.

Declare a contingent fee of twenty-five percent of past-due benefits reasonable at the court level, and further declare a legislative exception to the jurisdiction of the Supreme Court and all Federal Courts pursuant to Article III, Section II of the Constitution which would eliminate the fee approval process as to Social Security disability cases and SSI cases in the Federal Courts. The Federal Courts with their heavy case loads would doubtless appreciate such relief.

Provide for direct payment of fees in successful court cases to attorneys.

Amend the Social Security Act Title XVI to provide for withholding and direct payment of attorney fees in SSI cases. Presently, SSI claimants are vastly under-represented because attorneys recognize that fees in

such cases, because of the exempt status of benefits in the present legal scheme, are collectible only if the claimant chooses to pay them. The present legal structure is one where SSI claimants can legally obtain attorney's services by false pretenses by signing a valid fee agreement and then refusing to pay when they receive the past-due benefits check from which no attorney fees are withheld.

Declare attorney fees in overpayment or continuation of benefits cases to be a matter of agreement between claimants and their attorneys subject to ethical standards of the States where claimants live.

This would eliminate the burden of the fee-approval process upon the Administration and would free many or all of the employees presently involved in fee approval from that duty.

In addition, my proposed further amendment would declare a contingent fee of 25 percent of past-due benefits reasonable in court cases and would remove the court's supervisory duty with regard to attorney fees. This would free judges, magistrates and court personnel from the need to be involved in fee approval. The federal courts say they are overloaded. I am sure they would be happy to get these fee matters off their dockets.

Dissatisfied claimants could pursue their remedies through State disciplinary proceedings if their lawyers overstepped themselves. Laws already on the books provide for Federal prosecution in those rare instances of fraud by attorneys toward their clients. If you really believe that deregulation and free enterprise and building up the States is in order, why not give this alternative a try?

The real problem with this proposal is this: it is economical and would take bureaucratic meddling out of the fee process in these cases, so that attorneys could concentrate on the merits of their clients' cases. It would assure the availability of competent attorneys to represent claimants in these cases and would increase the availability of counsel in SSI cases. It also would vastly reduce the work on attorneys fees at both the Agency and the Court levels, so that personnel could be freed to perform other duties.

Let the States regulate the attorneys. In those rare incidents of misconduct State remedies are available. If the States fail to act, the U. S. Attorneys can prosecute under existing law for any fraud by attorneys.

I realize that the Social Security disability program is not looked upon by some people as desirable. I disagree with those who would say it should be crippled by measures such as the proposed "user's fee success penalties" or abolished.

The moneyed interests and the insurance industry have kept whittling away at Workers' Compensation Benefits in the State Legislatures. There is a true need for a Federal safety net for injured workers and sick people with no incomes.

Keeping the Social Security and SSI disability programs and making them work seems essential to our economic and social stability as a Nation, especially when State legislatures under intense lobbying by insurance companies and business groups are diminishing workers compensation, leaving many of our injured and our sick below the poverty line and unable to get truly adequate medical care.

As I see it, keeping the Social Security and SSI disability programs is fully consistent with the basic traditional American philosophy which says:

Those who cannot provide for themselves should be assisted by both government and society. Every effort should be made to help them become self-supporting, productive citizens with pride in their independence. But if they truly are disabled they should be aided, not abused.

I have been practicing Social Security law for over 20 years. I wish each of you could spend a week with me at my office and in the hearings and could see the people who come to me seeking to know why their doctor's letter saying they were disabled is rejected by SSA or why someone they know is less seriously impaired than they are was granted disability without going through the lengthy appeal process. This is the stuff of my daily life at the office.

The Social Security Administration often points to a supposed 68% to 70% reversal rate (actually 62 percent according to published figures for FY 1995) at the Administrative Law Judge level as a sign of systemic malfunction. It isn't. The reversal rate is incorrectly stated.

I know that the figures given out by SSA do not reflect the reality of the plight of claimants. The 62% figure tossed about by SSA and others concerning reversals of Agency decisions by Administrative Law Judges (ALJ's) in Fiscal Year 1995 is not the true picture.

Over one-half of those claimants whose claims are initially denied drop out.

By the time the case reaches an Administrative Law Judge hearing the number is nowhere near half of those initially denied, but actually is a little over one-sixth according to SSA figures for FY 1995.

The fact that 62 percent of claimants who appeal are successful at the ALJ hearing level simply shows that the Disability Determination Section (DDS) is wrong about who is disabled in that many cases. The reversal rate by ALJs shows the system actually works. But the percent of those originally denied who prevail at the ALJ level is not anywhere near even 20 percent of those who initially were denied. Let's keep our facts straight so we can understand the real situation. Targeting reducing the percentage of cases allowed by Administrative Law Judges from approximately 62% to 40% at the ALJ hearing level amounts to "putting a finger on the scales of justice." It is a classic illustration of misunderstanding the actual meaning and significance of statistics. This should be recognized in dealing with this issue. It speaks volumes about the character of those who use it in such a manner. Such a goal is unreasonable.

What really should be done is this: quit trying to use the back door communications with ALJs through Social Security Rulings to tamper with their decisions. Give them the law, the law books and law clerks and untie their hands with an admonition to do justice to all who appear before them by applying the law and regulations to the facts of each case. They should be aware of and bound by decisions of Circuit Courts of Appeals.

Then let the courts correct any decisional errors.

I believe the District Courts and Circuit Courts of Appeals, rather than a new court should be the place where appeals are heard. District Judges and Magistrate Judges should continue to hear these cases, rather than creating a separate Social Security Court. They understand due process and fairness across the board and are less likely to abdicate the practical wisdom they have gained by hearing different kinds of cases in deciding these cases fairly.

Down the street is the Court of Veterans Appeals. It was a noble experiment turned sour. Claimants' counsel seldom are allowed to have oral argument which is a cornerstone of judicial fairness. The judges and counsel there struggle in an impossible setting, but little gets finally decided. The Court has been captured by the Agency through sheer force of numbers and lack of resources. Recently, competent attorneys are getting tired and dropping out of veterans' benefits practice because it is too much like the endless proceedings in Kafka's The Trial. It is hardly a beacon to those seeking justice. My advice is to stay away from creating an Article I court.

One final word: Require SSA to quit evading implementation of 42 U.S.C. 421(k) which requires the Administration to adopt uniform standards applicable at all levels of adjudication using the public notice and comment procedures of the Administrative Procedure Act set forth at 5 U.S.C. 553. The adoption of Social Security Rulings should be flatly forbidden unless they are adopted using this process which assures the opportunity for public input before such rulings are adopted.

Let us remember that governments derive their just powers from the consent of the governed. Give the public notice and a chance to comment on any rulings which are to be used in adjudicating cases before they are adopted and implemented.

Congress tried to make SSA put all the standards of adjudication in one book by adding 42 U.S.C. 421(k) to the Disability Benefits Reform Act of 1984. Now it is 1998 and that mandate never has been fulfilled.

If Congress and Mr. Apfel will make the Social Security Administration follow the law, we all can move forward together toward a promising future.

But if SSA keeps trying to evade the clear requirements of law and retaliate against attorneys for successful claimants, there can be no peace because there will be oppression of the citizens who are disabled. "Peace is not the absence of war, it is the presence of justice!"

For the good of us all, I only pray that Congress, in its wisdom, will see fit to see through the "user's fee/success penalty" and forbid it.

I also hope Congress will discourage and forbid mechanical quota limits on favorable decisions by administrative law judges and will see fit to enforce compliance by SSA with 42 U.S.C. 421(k).

The proposed reforms I have presented would make the Social Security disability appeals process an instrument of the justice we all seek, not a disguised weapon for oppression of the sick and disabled citizens who have no place else to turn. I urge you to carefully study and consider adoption of the reforms I here propose for the benefit of us all.

Thank you for your consideration. I hope that my remarks will be helpful to the Subcommittees in your deliberations, and that you may find some merit in them.



D. C. DANIEL, JR.
An individual interested Citizen

SUPPLEMENTAL SHEET

The attached statement (three pages) is submitted by:

Michael P. Hanson
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Summary of statement:

Improvements in (1) internal communications, and (2) employee involvement in decision-making, would provide strong support to the stated Agency objective of reducing "high-risk" factors in the Supplemental Security Income program, and failure to address (1) and (2), above, jeopardize attainment of the objective.

Some recommendations for achieving (1) and (2), above, are:

- (1) Require all workgroups to post developments (e.g., minutes, or a meeting summary) to the SSA Intranet. (The National Partnership Council already does this.) For any workgroup that does not keep records electronically, require that at least an outline of the group's tasks, along with a point of contact, be posted.
- (2) Greatly expand the repository of policy and systems data available on the Intranet. For example, if the Office of Program Benefits Policy completes a study of high-error profiling of SSI redeterminations, post it.
- (3) Boost the number of field office employees offered the chance to participate in workgroup projects that will affect their front-line operations.
- (4) On all memos, teletypes, e-mails, and other top-down communications, provide a contact to whom feedback or suggestions may be directed. (I believe SSA has some trepidation about the volume of responses such a practice might generate. I also believe, absent data to the contrary, that such concerns are unjustified.)
- (5) Re-vamp the SSA Suggestion Program to incorporate a teamwork approach to development of ideas.

Statement of Michael P. Hanson

Honorable Chairman Jim Bunning and Chairman E. Clay Shaw, Jr., and Honorable Committee Members, thank you for the opportunity to comment on "challenges facing the new Commissioner of the Social Security Administration (SSA)." Rather than attempt a comprehensive survey, I will restrict my remarks to two related factors that will influence SSA's efforts to bring under control high-risk elements of the Supplemental Security Income (SSI) program. The following statement represents my own personal views and not necessarily those of my employer or any other person(s).

Social Security's Agency Strategic Plan: "Keeping the Promise," in reaffirming the Agency goal to "be an employer that values and invests in each employee," stresses that "we absolutely must achieve the objectives of this goal if we are to survive both as a high-performing organization and as a cohesive community." The Plan goes on to list "generally agreed upon" characteristics of an Agency culture that reflects commitment to employees; among those are **effective internal communications** and **employee involvement**. Yet recent criticisms levied against the SSI program by the GAO and SSA OIG appear to overlook any possible nexus between shortcomings in the above areas and Social Security's lack of progress in surmounting deficiencies in SSI program integrity.¹ Failure to make explicit the relationship between these considerations will diminish the practical effect of any correctives implemented.

Since it is the area with which I am most familiar, I will use as illustration the current proposal to "[increase] the number of redeterminations of continuing eligibility that the Agency conducts."² This initiative answers, in part, GAO's and OIG's charge that "SSA pays inadequate attention to verifying recipients' financial eligibility."³ Field office employees, by-and-large, learned of this plan only after it was announced in the 1999 APP (if then). Lack of input from the field raises the likelihood that employees tasked with implementing the proposal will be less enthusiastic than otherwise about the potential for reductions in SSI overpayments, fraud and abuse. Moreover, any procedural design flaws in the proposal will reinforce field perceptions that inadequate attention was given to appropriate support for the "front-line." Possible substantive shortcomings in the plan (which I will not address as part of this illustration) will discourage rather than motivate field office employees, who may perhaps view defects as evidence of a Central

¹I would note, however, that a January 1998 update (GAO/OCG-98-1R) to GAO's initial report designating SSI as "high-risk" anticipates future explication of links between SSA's "management philosophy and agency culture" and "longstanding SSI problems." That report, due out in Spring of 1998, may yet address connections between the mentioned ASP goal and GAO's concerns.

²Social Security Administration Annual Performance Plan for Fiscal Year 1999.

³Supplemental Security Income: Long-Standing Problems Put Program at Risk (GAO/T-HEHS-97-88). See also, SSA Inspector General's Report to the Congress, October 1, 1996 - September 30, 1997.

Office culture insensitive to the multifarious negative impacts a poorly considered project can have on relatively small components, such as field offices.

The Agency Strategic Plan insists that "we must be more creative in managing work and that we must involve employees and their representatives.... Creative use of the talents of all employees will ensure that we can develop and implement nationwide initiatives to support effective and efficient operations." Since "approximately 85 percent of SSA's employees perform direct service to the public,"⁴ the above sounds like good advice and good news for field employees. But do things happen that way? Consider:

- (1) Currently, workgroups formulate a significant share of proposed initiatives, yet (a) an extremely small number of field employees serve on these workgroups, (b) very few field employees are aware of their activities (or even, oftentimes, their results!), and (c) no vehicle exists for interested employees to make contributions to workgroups as they proceed. (For example, it was easier for me to become aware of the requirements for submitting a statement for this Hearing than it usually is to learn of current SSA workgroup activity.)
- (2) Social Security conducts focus-group sessions with employees, but again, unless one is fortunate enough to be included, how can contributions be made regarding the issue(s) under consideration?
- (3) The National Partnership Council gives the AFGE a forum through which to articulate positions and ideas on a variety of items; however, the Union's interests often fail to coincide with those of front-line SSA employees seeking to address customer-service issues and internal agency process improvements.
- (4) The SSA Employee Suggestion Program is largely ineffective, suffering from structural weaknesses that pit harried, often insular, and occasionally defensive Central Office employees against harried, often uninformed, and occasionally foolish Field employees.

The ASP declares that "a strategy will be devised to encourage and reward organizational entrepreneurship--coming up with better, smarter, and faster ways to do our business," and the Deputy Commissioner for Operations has identified development of an Awards/Recognition Strategy for Operations as a key issue in 1998, to further the goal of "valu[ing] and invest[ing] in employees."⁵ Still, unless that strategy solicits liberal feedback from stakeholders in the field, and encourages bottom-up internal communications, its prospects for proving effective and winning widespread support fade.

⁴Social Security Administration Accountability Report for Fiscal Year 1997.

⁵From internal documents, Office of the Deputy Commissioner for Operations.

Recommendations

Following are some general recommendations for improving the quality of any future explorations of SSI program improvements:

- (1) Require all workgroups to post developments (e.g., minutes, or a meeting summary) to the SSA Intranet. (The National Partnership Council already does this.) For any workgroup that does not keep records electronically, require that at least an outline of the group's tasks, along with a point of contact, be posted.
- (2) Greatly expand the repository of policy and systems data available on the Intranet. For example, if the Office of Program Benefits Policy completes a study of high-error profiling of SSI redeterminations, post it.
- (3) Boost the number of field office employees offered the chance to participate in workgroup projects that will affect their front-line operations.
- (4) On all memos, teletypes, e-mails, and other top-down communications, provide a contact to whom feedback or suggestions may be directed. (I believe SSA has some trepidation about the volume of responses such a practice might generate. I also believe, absent data to the contrary, that such concerns are unjustified.)
- (5) Re-vamp the SSA Suggestion Program to incorporate a teamwork approach to development of ideas.⁶

Conclusion

Many of the ideas proposed by SSA, GAO and OIG for reducing risk in the SSI program carry human resources implications for the Agency. Even improvements designed to increase productivity (such as IWS/LAN, or MSSICS enhancements) tend to have short-term negative impacts on productivity. Since the outlook for increased resources is bleak, SSA has rightly observed in the ASP that "nearly every service improvement involves spending resources of some kind...we must not just work better but find ways to make the work we do cost less." Relying selectively at this time on only the input of a statistically-sampled subset of employees, and on tiny fractions of front-line workers involved in workgroups, and on catch-as-catch-can suggestions from a small pool of employees who have not lost confidence in the SSA Suggestion Program, marginalizes a large number of stakeholders who are called upon daily to administer procedures and policies they have had scarce opportunity to help mold. World-class service does not flow abundantly from stakeholders who feel thus marginalized.

03/07/98

⁶Numerous other enhancements to the SSA Suggestion Program could be advanced, but those lie outside the scope of this statement.

TESTIMONY
OF THE
NATIONAL ASSOCIATION OF DISABILITY EXAMINERS
ON
CHALLENGES FACING THE NEW COMMISSIONER OF SOCIAL SECURITY
PRESENTED
TO THE
SUBCOMMITTEE ON SOCIAL SECURITY AND
SUBCOMMITTEE ON HUMAN RESOURCES
BY
DEBI GARDINER
NADE PRESIDENT
MARCH 12, 1998

Chairman Bunning, Chairman Shaw and members of the Subcommittees, on behalf of the members of the National Association of Disability Examiners (NADE) thank you for this opportunity to provide testimony. The issues being discussed at this hearing affect all taxpayers and those eligible for benefits. We believe NADE can provide a unique perspective on many of these issues.

NADE is a professional association whose membership includes physicians, psychologists, advocates, attorneys and Administrative Law Judges. The majority of our members, however, work in the state Disability Determination Service (DDS) agencies and are directly involved in processing claims for Social Security and Supplemental Security Income (SSI) disability benefits. We are keenly aware of many of the challenges facing Social Security today, perhaps the greatest of which is restoring and maintaining public confidence.

NADE believes that every individual who applies for Social Security or Supplemental Security Income disability benefits is entitled to a fair, accurate and timely decision. To that end we believe that ongoing, open communication between the state DDSs and Social Security's Field Offices and between the DDSs and the Administrative Law Judges is essential. Improving and maintaining these lines of communication provides a more consistent message to the individual applicant and to the public and should improve the timeliness of the decision. Our cooperation with SSA's Redesign initiatives demonstrates our commitment to improving the service provided to SSA's customers. Many of the Redesign pilot projects have included a greater emphasis on communication between the various components and we believe the results from those pilot projects that placed greater emphasis on communication have demonstrated improved customer service.

We are concerned about the long term solvency of Social Security and support the current emphasis on Continuing Disability Reviews (CDRs). Such reviews provide a message to the public that stewardship of the Trust Fund is being maintained and to the beneficiary that disability benefits are not necessarily permanent. We believe that for these reviews to be meaningful and productive, however, the current medical improvement standard should be revised. A copy of NADE's Position Paper on this subject is attached to this testimony. While we do not want to preserve the Trust Fund at the expense of the truly disabled we feel the CDR process can provide a bridge from disability to return to work, from one economic status to an even better one.

NADE has previously voiced its' concerns regarding the SSI childhood disability program. We strongly supported those provisions in the 1996 Welfare Reform law which tightened eligibility standards and which specified treatment requirements. As a result of this legislation, many of those children who had been awarded benefits since 1990 had their claims reviewed to

determine if they continued to meet the new standard of disability. The very tight timelines for processing these cases may have contributed to the perception of errors being made and cast doubt on the fairness with which the reviews were conducted. While we strongly believe that this was not the case we also believe that public confidence in the disability program must be preserved. We support Commissioner Apfel's decision to address the perception of error by taking a second look at some of these cases.

NADE is committed to insuring the integrity of, and preserving public confidence in, the disability program. This requires a nationally uniform, equitable decision making process. While we believe that the vast majority of claims are adjudicated correctly the outcome of the quality assurance reviews which were performed on the childhood cases demonstrated that SSA's current quality assurance process is less than effective. Statistical data obtained from this process is often inaccurate and unreliable and can result in invalid conclusions. NADE believes that it is time for SSA to develop a new model for the quality assurance process which will produce meaningful information and provide a basis for improvement through identification of problem areas or specific training needs.

SSA has been engaged in a number of Redesign pilot projects since 1993 with the ultimate goal of improving customer service in a cost effective manner. NADE members are committed to providing timely and accurate decisions and we have supported piloting these Redesign initiatives. We believe that SSA should now begin the process of moving forward with those initiatives which have proven effective in providing improved customer service. We also believe that SSA should re-examine those projects that have thusfar failed to demonstrate improved customer service in a cost effective manner and decide whether such initiatives should continue to be tested.

Continued, ongoing professional training and development is critical to the success of the disability program in meeting the challenges of the 21st century. As we move further into the information age, the issues surrounding the need for professional training and development become even more critical. NADE has consistently supported efforts to maintain a well trained, professional workforce and will continue to do so through our annual state, regional and national training conferences. Only with adequate resources, including adequately trained staff, clear and timely instructions, and systems support, will we be able to meet the workload challenges of the future.

Again, thank you for allowing us this opportunity to provide testimony.

The Medical Improvement Standard: An Analysis and Discussion of Ideas for Improvement

Executive Summary

•The paper reaffirms NADE's support of the Medical Improvement Review Standard.

•The paper reiterates concerns that disparate decision-making processes inevitably yield different results.

•The POMS standard regarding the error exception to MIRS is more stringent than the statute and needs to be clarified.

•The paper suggests an alternative decision-making sequence for CDRs and also suggests that the comparison point time period be lengthened; that medical "holds" be available for use with CDRs and that benefits of vocational therapy be removed as an exception to MIRS.

•The paper suggests that all options for making MIRS and the CDR process viable be explored prior to consideration of abandoning it in favor of time limited benefits.

INTRODUCTION

Individuals who have been awarded Social Security disability benefits should be able to rely on the validity of the decision. They should expect that SSA will not terminate those benefits unless there is a change in their condition that would warrant termination. The purpose of the medical improvement (MI) standard is to safeguard against arbitrary termination.

The public should be able to expect that the Social Security Administration (SSA) will administer the disability program in a cost-effective manner and that disability benefits will be paid only to those who meet the statutory definition of disability. It is widely perceived among our members that the medical improvement review standard (MIRS) generally

satisfies the first expectation but often fails in the second. The purpose of this paper is to review the medical improvement standard and discuss selected suggestions for its revision. These changes, or other similar changes, will continue to safeguard beneficiaries against capricious action while removing barriers to terminating benefits to those individuals who are not truly disabled.

HISTORY OF THE MEDICAL IMPROVEMENT STANDARD

The first medical improvement standard, called the LaBonte principle with its origins in case precedent, was used from 1965 to 1975. In the early to mid-1970s, there was an explosion of beneficiaries entering the rolls. A General Accounting Office (GAO) study around that time concluded that 20% of those receiving benefits had never been (or were no longer) eligible. In response, SSA dropped the MI standard in 1976 to facilitate removal of those who no longer met the definition of disability. Beginning in 1981, SSA directed cessations with an unprecedented stringency which led to a public outcry. Eventually, after sustained public protest including moratoriums on continuing disability reviews unilaterally imposed by several states, Congress reinstated the MI standard with the passage of PL98-460 on October 9, 1984.

A medical improvement standard was necessary and was established with excellent intentions. It was, however, partially based on an erroneous premise. The objective of continuing benefits for individuals whose medical condition has not improved relative to their capacity to engage in substantial gainful activity (SGA) is not only fair to disabled individuals but was the reasonable expectation of the public at large. But the assumption that all beneficiaries currently have a condition that precludes

SGA is not correct. Disability examiners know that claims are sometimes allowed without correct interpretation of medical evidence or application of adjudicative standards. The present standard, as interpreted by SSA and enforced by federal quality assurance components, does not provide consistently adequate mechanisms for ceasing benefits in these claims. We believe that if data were made available regarding the number of claims ceased because the previous decision was erroneous, it would provide statistical validation of this contention.

One aspect of the problem stems from the fact that the POMS is unclear about the standard of proof necessary to find error in the CPD decision and, thus, call into play the exception to medical improvement. There are three (3) frequently used standards of proof in administrative and judicial affairs.

•**Beyond a reasonable doubt** is the standard applied in criminal proceedings and is generally defined as the facts are such that the finder of fact has no reasonable doubt of the existence of the fact in issue.

•**Clear and convincing proof** means proof by evidence that is clear, explicit, and unequivocal; evidence that is so clear as to leave no substantial doubt, or that is sufficiently strong to demand the unhesitating assent of every reasonable mind.

•**Preponderance of the evidence** is the standard that usually attends in disability proceeding. This means that the evidence, when weighted with that opposed to it, has more convincing force and the greater probability of truth (more probable than not).

POMS (DI 28020.350D1) requires that there be "clear and compelling evidence" that a prior decision was in error before an exception to the medical improvement standard attends. The POMS does not define "clear and compelling" but the wording does suggest the clear and convincing standard defined above. It is generally believed that "clear and compelling" represents a higher standard of proof than preponderance of evidence, the standard customarily employed in disability proceedings and called for in the Federal Regulations. The statute and the regulations are silent as to the standard of proof required to find an exception to medical improvement. They require, simply, the existence of "substantial evidence". In writing POMS, SSA modified the standard present in the CFR, i.e., substantial evidence, to a higher, more difficult standard.

The tedious and unnecessary complexity of the POMS conveys the subtle message to decisionmakers that error exceptions should not be found. The instruction seems to lead the decisionmaker into a continuation of benefits for lack of medical improvement even when the comparison point decision was erroneously decided, and the regulations would support an error exception.

In the recently concluded Process Unification Training, one of the clear and explicit messages was that POMS is not intended to, nor should it, modify the regulations in any way. Rather, the POMS should be clarified to ensure consistency with the regulation. We also believe that examples of the error exception should be cited in the POMS to illustrate situations involving substantial evidence error.

In looking at the current application of MIRS, issues of substance and of perception become apparent. By the reference to substance we mean the discrepancy between the "error" standard contemplated by the regulations and the one set forth in POMS. The problem of perception relates to an apparent difference in interpretation of the MIRS from state to state and region to region.

We conducted an informal poll in conjunction with our study which posed the following case scenario to individuals knowledgeable about MIRS, many of whom are currently adjudicating CDRs.

● An applicant was allowed on the basis of glaucoma. The claimant had no visual field loss, 20/20 best corrected visual acuity and no additional physical or mental impairments. The written rationale stated that the claimant was disabled because "he would eventually go blind."

● At CDR the individual still has no field loss and 20/20 best corrected visual acuity. There are no additional impairments.

Approximately half the respondents felt there was a clear decisional error and, therefore, a cessation was appropriate. The other half felt that following DI 28020.350D, the case must be continued. Some reviewers felt that error could not be found because the decisionmaker had not misread the evidence. He had noted the normal visual acuity and fields but had elected to make a favorable decision in spite of that. Others felt that error should be found since an adjudicative standard had been misapplied (POMS DI 28020.355), i.e., the decision-maker had substituted a personal standard-the individual will eventually go blind-for the proper standard that disability must be based on a finding that the individual has a medically determinable impairment that prevents (not will prevent or may prevent at a future day) engaging in substantial gainful activity. It is difficult to imagine a less ambiguous example. The discrepant interpretations, therefore, must result from ambiguous instructions and discrepant results of quality review.

The respondents in the poll cited the quality review process as a factor involved in MIRS.

RECOMMENDATIONS FOR CHANGE

To strengthen the medical improvement standard, NADE believes the current methodology should be reviewed. A revision to sequence, such as the one shown below, could make the error exception to MI meaningful while protecting beneficiary rights.

● Does the claimant meet or equal a listing; if yes, continue, if no:

● Does the claimant currently have an impairment(s) that prevents past relevant work and other work; if yes, continue, if no:

● Apply MIRS. If no improvement, continue; if there has been MI related to the ability to work, cease; if the prior decision (comparison point decision or CPD) was clearly in error, prepare a rationale citing supporting evidence and forward the claim to the DDS Hearing Office or Quality Assurance component for an independent review.

● If the independent review concurs that evidence in file shows the CPD was in error, the DHU will conduct a hearing. If, after the hearing, the hearing officer concurs that the CPD was in error, the DHO will forward the claim to a Federal component, such as OPIR, for a review and determination. The federal component would notify the claimant and the adjudicator, DDS or ALJ of the decision.

In this process the burden of proof would be on the adjudicator of the current claim to demonstrate that the prior decision was in error. The adjudicator in such a scenario would, at each point, be someone other than the person involved in the CPD. We believe that this alternative procedure illustrates the possibility of improving MIRS without subverting its purpose.

NADE members who process CDRs have noted that many times cases are allowed using medical evidence that is more than a year old. Frequently these decisions are accompanied by a short diary meant to trigger a quick CDR. However, MIRS requires the decision-maker to compare the beneficiary's baseline condition during the year or so prior to the date of the last favorable decision (CPD) with his/her current baseline condition. That comparison cannot be made if insufficient evidence exists at CPD. In such instances, MIRS mandates a continuation of benefits.

NADE believes that the definition of comparison point evidence should be expanded to include the period 12 months prior to the date of the latest medical evidence that the decision-maker had at CPD—rather than the date of the decision itself. This would give the current decision-maker evidence to assess the recipient's baseline condition at the CPD and compare it with the current baseline. This seems reasonable when the CPD was based on abuse of discretion, i.e., making a decision not based on reasonably current medical evidence. Further, the POMS directive to include evidence received after the CPD in assessing CPD severity should be deleted. The "medical hold or medical deferral" procedure is used at the initial level to better predict whether the twelve (12) month duration requirement will be satisfied. For example, when a claimant has a stroke or heart attack, DDS may defer adjudicating the case until three (3) months have passed after the acute event in order to obtain a better assessment of the claimant's condition. A medical hold/deferral is not widely employed at the CDR stage.

NADE believes that use of this procedure should be encouraged in CDRs. Beneficiaries may elect to have surgery at the time their claim comes up for review. Others may experience a fracture in the proposed month of cessation. In a cancer case one must allow three (3) years from the absence of all

cancer, before ceasing benefits. A NADE member reported receiving a CDR on an individual with cancer three months before the three year period expired. Although the claimant's condition was non-severe, benefits had to be continued because standard practice did not permit holding the case for the extra three months. Medical hold/deferrals could also be helpful when the cessation is upheld, but a new impairment occurs after cessation that requires evaluation for a new period of disability.

Under the current regulations recipients who apply for and undergo vocational rehabilitation services place their benefits in jeopardy simply because of their initiative in seeking services. NADE believes that current CDR provisions should be revised to eliminate considering the benefits of vocational therapy to be an exception to medical improvement. This provision currently serves as a disincentive to beneficiaries working diligently to become rehabilitated and rejoin the work force.

One problem with the current CDR process and, consequently, with the MIRS, has been the chronic inability of SSA to conduct CDRs on a timely basis. We have recently seen some positive movement in the direction of conducting more CDRs closer to the established diary/re-exam date. NADE applauds this move and supports SSA in its efforts to secure the needed resources to manage this workload in an efficient, cost-effective, accurate manner.

CONSIDERATION OF TIME-LIMITED BENEFITS

If the CDR process worked as it was originally envisioned, there would be no need to consider time-limited benefits. Only eligible claimants would be awarded benefits. CDRs would always be conducted timely. Cessations would be done and upheld on all those individuals who no longer met the statutory definition of disability. Claimants would know in advance when their eligibility would be reviewed, could count on that fact, and plan their lives accordingly.

As anyone associated with the disability program knows the conditions described in the preceding paragraph do not reflect current reality. Time limited benefits have been proposed as one viable means to encourage claimants to obtain appropriate treatment and rehabilitation to re-enter the work force. Time limited benefits are also being proposed as a mechanism for changing the mind set of individuals so that most people receiving disability benefits would not expect a lifetime of payments. Rather, they would see the disability program as providing financial security while they engage in the business of recuperating and rehabilitation.

NADE believes that refinement of the MIRS is preferable to time-limited benefits. If CDRs can be conducted in a timely manner, if genuine errors in decisionmaking can be corrected at the CDR level by changes in the MIRS, if disincentives to return to work can be eliminated, then NADE believes that a medical review standard can serve both the disabled population and the general public better than the wholesale changes time-limited benefits would entail for the program.

Extensive study and analysis of data should be done prior to making such a major change in the disability program. Also, the CDR process should be fully utilized. Only after full implementation of the CDR program will it be possible to assess the efficacy of time limited benefits. A recent GAO study demonstrated little correlation between type of impairment or any other claimant characteristic and the estimated likelihood of benefit termination. Unless a high degree of correlation can be demonstrated between identifiable and measurable characteristic, NADE believes that time-limited benefits would be fair in its intent but unfair in its application since we cannot know in advance if any individual claimant's condition will conform as a statistical model. Time-limited benefits, by requiring new applications for those whose benefit period has ended, could well increase the workload within the program.

CONCLUSION

NADE is on record as supporting the Medical Improvement Review Standard as a necessary safeguard for beneficiaries. We do see areas in which the standard can be refined and strengthened for the benefit of both the general public and disability recipients. With that said, however, NADE takes this opportunity to reiterate a position that we have articulated in many different arenas over time. The biggest challenge to the integrity of the program is disparate decision-making at various levels of appeals. It is imperative that decisionmakers throughout the process all make programmatically correct decisions on the basis of sound evidence, both medical and otherwise. Without consistent decisionmaking the program will continue to be in jeopardy.

The National Association of Disability Examiners encourages an open review of the Medical Improvement Review Standard, considering factors such as those discussed above. We believe that, if adopted, those changes will enable the SSA to meet its dual responsibilities of safeguarding beneficiaries against capricious action and safeguarding the public's monies against erroneous benefits being paid. Continuation of the current standard will only lead to further erosion of public trust and confidence in the program as well as skyrocketing costs to the taxpayer. Time-limited benefits should only be enacted after careful consideration of any evidence that may be produced that reflects positive outcomes for beneficiaries, the general population and/or the fiscal stability of the program.