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Subcommittee on Income Security and Family Support

Statement for the Record

Eliminating the Social Security Disability Backlog

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Good morning, Chairman Tanner, Chairman McDermott, Congressman Johnson, and Congressman Linder. Let me first thank you for your invitation to testify today. Your committees are staunch supporters of the work of the Office of the Inspector General, and I look forward to working with all of you on the many critical issues of great concern to us all.

Of the 27 members of the two subcommittees, I am testifying before 20 of you for the first time. While I won't take up much time with background information, I do want to take the opportunity to introduce the Social Security Administration's (SSA) Office of the Inspector General, or OIG, to those of you new to these committees. In business since SSA became an independent agency in 1995, the OIG is currently a team of 600 auditors, investigators, attorneys, and other professionals dedicated to our statutory mission-preventing and detecting fraud, waste, and abuse in SSA's programs and operations. Over the years, our audits and investigations have uncovered billions of dollars in fraud, improper payments, and Federal funds that can be put to better use. I'm extraordinarily proud to head an organization that works so tirelessly to protect the integrity of these government programs that touch the lives of nearly every American.

In February, Chairman Tanner was gracious enough to meet with me and discuss issues of mutual concern. During that meeting, Mr. Chairman, you mentioned a constituent who had contacted you, wanting an assurance that disability benefits are paid only to those entitled to them, and that the stimulus funds put to that use are spent well and wisely. My testimony today is directed at that constituent, Mr. Chairman, and at millions more like her.

While I'm always pleased to testify before the Social Security Subcommittee, I'm particularly pleased to be here before the Subcommittee on Income Security and Family Support as well. The Title XVI Supplemental Security Income program has been off the Government Accountability Office's high-risk list for years now, but this has not slowed the OIG's work on SSI issues. In addition to the audits related to the disability backlog that I will discuss today-most of which are equally applicable to Title II and Title XVI disability applicants-we have conducted several recent audits focused on the integrity of the SSI program.

Last week, Congressman Brady was kind enough to visit one of the offices that best illustrates the partnership we have forged with SSA to combat fraud. Our Houston Cooperative Disability

Investigation unit, or CDI, is one of 20 such units around the country that we formed in partnership with SSA more than a decade ago. Each is composed of an OIG Special Agent who acts as team leader, employees from SSA and that State's Disability Determination Service (DDS) who act as programmatic experts, and State or local law enforcement officers. Tapping the skills of each member, the CDI units receive benefit applications flagged as suspicious by the DDS and, where appropriate, investigate.

Designed to detect fraud before benefits are ever paid, the CDI units have been an overwhelming success. Several years ago, the Government Accountability Office recommended expansion of the CDI program to all 50 states, and I share their enthusiasm. With a return of \$14 for every dollar invested, CDI units make sound fiscal sense. I want to thank Mr. Brady for his interest and his visit, and extend to all of you the same invitation to visit any one of our 20 CDI units.

The issue we're discussing today, however, is primarily one of service to the American public. Service is SSA's hallmark, and for fourteen years, we have urged SSA to strike an appropriate balance between that service and the stewardship incumbent upon a program that pays out over half a trillion dollars a year. Over that time, the OIG has always been there to help correct the Agency's path when its focus on service has threatened to overtake its commitment to stewardship. While the disability backlog is first and foremost a service issue, it also carries important integrity issues over which my office keeps a careful watch.

Therefore, I will address both service and integrity aspects of the backlog in my testimony today. I'll be discussing the work that the OIG has completed, and the work we have underway, that is designed to provide information and recommendations to the Agency and to Congress with respect to improving the entire disability adjudication process. To do so, I'll speak first to the overall processing time for disability claims, then to factors related specifically to the hearing process, and finally, to a number of related audits in which the focus is on integrity, rather than service alone.

OIG Reviews Involving the Overall Processing Time for Disability Claims

Our December 2008 report, Disability Claims Overall Processing Times, examined for the first time not merely the appeals process-where most of the backlog exists-but the entire process of adjudicating a disability claim. Looking at the process from soup to nuts, we sought to determine SSA's average overall processing time for disability claims decided at the initial DDS level, upon reconsideration at the DDS, by an Administrative Law Judge, by the Appeals Council, or by a Federal Court-all of the stops at which a claim can be decided. This, we felt, would give a true claimant's-eye view of the entire process from when the claimant filed an application until SSA issued benefits or the claimant stopped appealing.

We found that the average claim adjudicated in 2006, when decided initially by a DDS, was concluded in 131 days, but that if a claim was adjudicated upon a request for reconsideration, that time more than doubled, to 279 days. If a claim was appealed to an ALJ, the 279-day wait almost tripled, to 811 days, or 2.2 years. A trip to the Appeals Council (the last step under SSA's

control) increased the total time to 1,053 days, while a Federal Court appeal stretched the wait to just under five years: 1,720 days.

We recommended that SSA publish this measure to show disability waiting time from the claimant's perspective, to better inform Congress and the public.

We also have two audits underway that address overall claims processing time. The first, Impact of the Claims Process on Disability Applicants, stems from an issue raised by the Social Security Subcommittee during my testimony at a September 2008 hearing. The Subcommittee was concerned about the effect of the arduous disability adjudication process on already-disabled claimants. I share those concerns, and to address them, we are conducting a review in the course of which we will interview 550 randomly-selected disability beneficiaries. Of the 550, 250 had claims adjudicated at the DDS, either at the initial or reconsideration stage, another 250 were adjudicated by ALJs, and the remaining 50 were decided by the Appeals Council or a Federal Court. Our interviews are designed to elicit from these individuals information about their experiences in obtaining benefits and the effect those experiences had on them. We anticipate publication of this report in August of this year.

Our second ongoing project in this area is a Quick Response Evaluation entitled Impact of State Employee Furloughs on SSA's Disability Programs. As you are aware, several States have implemented furloughs of their employees. In some of these states, the furloughs include employees of the State's DDS. The Commissioner sent a letter to each of the relevant Governors, reminding them that SSA, not the States, pays 100 percent of the costs of processing these disability workloads. In addition, SSA's Regional Commissioners urged their States to exempt DDSs from hiring restrictions and furloughs. Nevertheless, our preliminary findings indicate that of the 52 DDSs, five were experiencing furloughs, three were still under furlough consideration, and 44 either were not furloughing employees, or the DDSs had been exempted. Unfortunately, the five States that decided to furlough their DDS employees-California, Maryland, Massachusetts, Oregon, and Connecticut-comprise 15 percent of the national DDS workload each year.

The impact of these furloughs on beneficiaries is apparent in our report, which will be issued shortly. For example, we found that California will encounter a shortfall of capacity of 10 percent due to furloughs. We estimate that this will delay over 2,300 applications from being processed, of which we estimate 776 would result in allowances. Those 776 beneficiaries will be forced to wait to receive their \$648,000 in monthly benefits as a direct result of the furloughs.

Since January 1, 2009, California's initial claims pending have increased by 9.7 percent and its reconsideration claims pending by 16.1 percent as a result of increased applications and the State furloughs.

OIG Reviews Related to the Hearings and Appeals Process

While issues surrounding the DDSs and the processing of both initial claims and requests for reconsideration are material to the overall backlog, the findings in our soup-to-nuts review establish that the real delays begin when an appeal is filed-it was at this stage that the processing

time jumped from 279 to 811 days. As a result, the majority of our work related to the disability process focuses on this stage of the claim.

In recent years, we have conducted a number of reviews in this area, studying ALJ productivity, hearing office performance, timeliness of medical evidence, and other factors. Our past work in this area can be viewed online, or I'd be happy to provide any of the Members with hard copies of any report.

Today, however, I'd like to look ahead by sharing some information about the work we have in progress in these areas, in addition to the aforementioned audit on the impact of the process on disabled beneficiaries, which bridges the initial adjudication and the appeals processes.

Electronic File Assembly, often referred to as e-Pulling, is a pilot initiated by SSA and designed to improve the process by which disability claim files are assembled and prepared for an ALJ hearing. Customized software, piloted at seven locations in the summer of 2008, is being evaluated by SSA to determine when e-Pulling should be implemented nationwide. The OIG is assessing the results of the pilot, as well as whether SSA's assessment procedures are effective with regard to making decisions about a nationwide rollout.

In another review, we are studying the age of pending claims caught in the disability backlog and identifying obstacles that have prevented the oldest claims from moving forward. Our review, which includes hearing offices with the most aged cases and those with the fewest, is designed to identify best practices and make recommendations for reducing the number of aged cases.

Hearing office performance and staffing is an issue we touched upon in our 2008 audit, ALJ and Hearing Office Performance. In that audit, we found that staff ratios and staff performance were significant issues in determining a hearing office's processing time. In an audit now underway, we are delving deeper into these specific issues. Our goal, to be accomplished through extensive field work in hearing offices across the country, is to identify optimum staffing ratios and staff skill sets to maximize hearing office performance.

In an earlier analysis of DDS determinations, we determined that there were four impairments that, when denied by the DDS, were most likely to be reversed by an ALJ: disorders of the back, osteoarthritis and allied disorders, diabetes mellitus, and disorders of muscle, ligament, and fascia. A review now underway will, within the context of these four impairments, analyze multiple variables to include claimant age, the State in which the claimant resides, the hearing office that heard the case, whether the claimant was represented, claim processing time, and other factors. Our goal is to provide SSA with information that will be useful in considering changes that will allow these cases at the initial level, instead of being consistently denied and reversed, using limited resources.

Video hearings are another initiative SSA has employed to reduce the disability backlog. By reducing ALJ travel to remote locations, SSA's intention was to increase ALJ productivity. As of fiscal year 2008, SSA had procured and was installing 558 video teleconferencing units, and was planning to obtain and install another 112 units in fiscal year 2009. SSA is also installing smaller video units, called Desktop Video Units, which will not require a hearing room and will thereby

expand the capacity of hearing offices. We have fieldwork underway on an audit designed to assess whether the use of these video units increases hearing office productivity and provides claimants with more timely service.

Finally, the American Recovery and Reinvestment Act of 2009 provided \$500 million to SSA to process the additional disability and retirement workloads created by increased benefit applications brought about by the economic downturn. As stated in the Joint Explanatory Statement of the Committee of Conference accompanying the legislation, “These additional funds will allow SSA to process a growing workload of claims in a timely manner and to accelerate activities to reduce the backlog of disability claims.” The OIG is charged with oversight of this and all SSA stimulus spending. In early April, as SSA provides the Office of Management and Budget with its plan for the use of these stimulus funds, our office will initiate an audit that will assess the Agency’s spending plan.

All of these ongoing audit efforts are designed with a single goal in mind: to help SSA and Congress in their efforts to improve service to disability beneficiaries. As I stated at the outset, however, service is only one side of the equation, and while the disability backlog is first and foremost a service issue, I would be remiss if I didn’t also mention our integrity-based efforts in the disability arena.

Integrity is at the very heart of the OIG’s mission, and our efforts in this area take on myriad forms. From criminal investigations to complex audits, and from government-wide task forces to the CDI units I mentioned earlier, integrity is our bread and butter. The programs administered by SSA pay some half a trillion dollars a year to 50 million beneficiaries and recipients nationwide and around the world. That money comes from the Social Security Trust Fund, the solvency of which affects every American, and from the general fund of the U.S. Treasury—all of it representing taxpayer dollars. We take our role as protectors of those funds very seriously, and while our work aimed at service issues, such as reducing the disability backlog, is every bit as important, service cannot be administered without safeguards adequate to ensure integrity. Thus, our work with regard to SSA’s disability programs is by no means focused solely on service.

Integrity-Based Work Related to Disability

Our work with respect to the integrity of the disability programs encompasses both improper payments and actual fraud. In both instances, the majority of these integrity issues are relevant with regard to both Title II and Title XVI disability, but the SSI program has unique characteristics stemming from its nature as a resource-based program that merit separate attention.

For example, last year, we conducted an audit designed to detect both improper payments and fraud due to the failure of SSI recipients to notify SSA that they had been married, an event that impacts both eligibility and payment amount under SSI. We estimated that about 2,000 recipients were overpaid about \$25 million, and that by stopping these incorrect payments, SSA could save about \$7 million over the following 12 months.

In another 2008 audit of the SSI program, we obtained bank data for a sample of SSI recipients to determine if it was cost-effective to use this type of information to identify SSI recipients who were no longer eligible by reason of being outside the United States. We analyzed the data to identify recipients with Automated Teller Machine withdrawals outside the country. Although we estimated a significant amount of overpayments-about \$226 million-the audit was labor-intensive, as the bank provided paper, rather than electronic, records. SSA does not intend to pursue the use of this type of data due to resource issues.

While these audits were SSI-based, we also conduct integrity work that by its nature is limited to Title II disability. In a review currently underway, we are following up on an earlier audit that examined SSA's treatment of Title II beneficiaries who had earnings reported to SSA, an event that is at least indicative that the individual may no longer be eligible for benefits. In 2004, we found that \$1.37 billion in overpayments resulted from SSA's failure to identify about 63,000 disabled beneficiaries whose work activity resulted in earnings being posted to the Master Earnings File between 1996 and 2000. In 2004, SSA implemented an automated system called eWork to assist in controlling and processing work-related Continuing Disability Reviews, or CDRs. Our current review revisits this issue, and assesses the success of SSA's efforts in this area over the past five years.

We found that while SSA has made efforts to reduce these overpayments, there remains cause for concern. Based upon the sample population we reviewed, we are estimating that approximately \$3 billion was overpaid to about 170,000 beneficiaries who had earnings reported between 2001 and 2006. While SSA identified \$1.8 billion and 141,000 of these beneficiaries, the remainder (\$1.2 billion to 45,000 beneficiaries) went undetected. We believe that 21,000 of these 45,000 beneficiaries are no longer eligible for benefits, and estimate that SSA will pay \$346 million to them over the next 12 months if corrective action is not taken. Our report is currently with SSA for review.

Finally, much of our integrity work covers both Title II and Title XVI disability. Like the Title II work-related CDRs, medical CDRs (Title II) and redeterminations (Title XVI) are a critical tool used by SSA to maintain the integrity of disability programs and processes. In recent years, resource limitations and other factors have resulted in fewer and fewer medical CDRs being conducted by the Agency. The Contract with America Advancement Act of 1996 provided funding for CDRs from 1996 to 2002, during which time SSA eliminated its entire backlog of CDRs and redeterminations. Since that funding expired, however, medical CDRs have decreased over 60 percent-from more than 679,000 in 2003 to fewer than 250,000 in 2008. The backlog, as of the end of fiscal year 2008, was reported at 1.4 million CDRs, and SSA estimates that the backlog will reach 1.6 million by the end of this fiscal year. Redeterminations decreased more than 50 percent during the same period.

We have initiated audits to determine the financial impact to the Social Security Trust Fund and the General Treasury as a result of the decrease in the number of medical CDRs and redeterminations being conducted, as well as the amount of funding that would be needed to eliminate the current backlogs.

This brings us full circle, to the CDI units I mentioned at the outset. When a DDS suspects fraud in the course of conducting a CDR or redetermination, they will frequently refer such a case to the CDI unit for investigation and, where indicated, criminal prosecution. Both CDRs and CDIs are invaluable integrity tools and represent wise investments.

Conclusion

The work I've detailed today, encompassing both integrity and service-related aspects of SSA's disability processes, is only a brief glimpse of the many ways in which our auditors are providing information and recommendations to SSA and keeping Congress and the public informed. I look forward to working with your Subcommittees in the coming years in this area, and in all aspects of the OIG's efforts, both audit and investigative, as we join together to prevent and detect fraud, waste, and abuse in SSA's programs and operations.

Thank you again for the invitation to testify today, and I'd be happy to answer any questions.