

Social Security Disability Insurance: Current Status and Challenges

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Topics

- Status of the Disability Insurance Trust Fund
- Backlog in disability appeals, declining customer Service and inadequate funding
- Regulations that have tilted the playing field and created procedural hurdles
- Proposals in the president's fiscal year 2019 budget request to Congress
- Legislative threats/good legislation

Status of SSDI Trust Fund

- Annual Trustees report released June 5
- Contains 75-year estimates for DI, OASI, and combined trust funds
 - Also Medicare
- SSDI exhaustion date: 2032
 - 5 years later than 2017 report - estimated 2028
 - After 2032 **96%** of benefits could be paid.
- OASI exhaustion date: 2034 (2017 report estimated 2035 but difference is a few months) after which 77% of benefits could be paid.
- Depletion date of combined trust funds remains 2034.

Backlog in Disability Appeals

- For most people, requesting a hearing before an Administrative Law Judge is 3rd step in appeals process
- Currently just over 900,000 people waiting for a hearing – down from a peak of 1.1 million
- People wait an average of just under 600 days from time request hearing to getting a decision
 - When include first 2 steps that is an average of 2.25 years from application to decision
- People often face devastating consequences during the wait: bankruptcy, eviction, homelessness, and some even die

Inadequate Administrative Funding

- Chronic underfunding of the Social Security Administration contributed to the backlog and other customer service declines
- SSA's operating budget fell nearly **9 percent** between 2010 and 2018, after adjusting for inflation — even as the number of beneficiaries grew by nearly **15 percent**
- Impacts all Social Security beneficiaries and especially SSDI beneficiaries by:
 - Overpayments because SSA does not timely adjust benefits
 - Long wait for decisions
 - Office closures, busy signals and long hold times on 1-800 number



Regulatory Changes: Tilted the Playing Field Toward Denials

- Changing evidence rules to require people to submit all evidence that “relates to” disability
- Creating arbitrary deadlines for the submission of evidence that can exclude from consideration relevant evidence
- Eliminate the “treating physician” rule
 - changed longstanding rules regarding how weigh evidence provided from a claimant’s own physician.
 - Used to give “highest weight” possible to the opinion of a doctor who has treated a claimant for years
 - Now SSA adjudicators can now give greater weight to the opinion of an SSA consultant who performed a cursory exam, or even a paper file review by a doctor who has never even met or examined the claimant



Regulatory Changes: Procedural Hurdles to Getting Benefits

Changing what evidence gets considered:

- Changing evidence rules to require people to submit all evidence that “relates to” disability
 - Creates large burden on claimants – time and money
 - For first time requires claimant to provide evidence that might disprove disability
- Creating arbitrary deadlines for the submission of evidence that can exclude relevant evidence



Procedural Hurdle to Eligible People Getting Benefits

- Reinstating “reconsideration” in 10 states that do not currently have it
 - Proposed in President’s Fiscal Year 2019 budget proposal to Congress
 - This level of review adds an average of 101 days to the wait time of the vast majority of claimants before they can request a hearing before an ALJ
 - Seven out of eight people are denied during reconsideration.
 - Thousands of claimants will not ever receive the benefits they are eligible for – many who meet the statutory eligibility criteria will abandon their appeals because of this procedural hurdle.

Other Harmful Proposals in Presidents FY19 Budget

- Cut SSDI benefits for individuals receiving Unemployment Insurance benefits (referred to as UI/DI)
- Cut SSDI benefits by decreasing retroactive benefits from 12 months to sixth months
- Require SSDI beneficiaries to pay back more if they receive an overpayment
- Exclude SSDI overpayment debt from discharge in bankruptcy

Legislative Threats

- Inadequate administrative funding
- SSDI is somewhat protected from bad legislation by Senate rules:
 - Need 60 votes to make changes to title II of the Social Security Act
 - Cannot be changed with reconciliation
- Social Security cuts not likely in election years
- Bigger threat is some of legislative proposals, like UI/DI, will be used to “pay for” other unrelated proposals

Good legislation

- Some bills introduced improve SSDI:
 - Senator Sanders bill, Social Security Fairness Act, S. 3147 would:
 - Eliminate 5 month waiting period for SSDI benefits
 - Eliminate 24 month waiting period for Medicare
 - Provide guaranteed administrative funding at 1.5%
 - Prevent closures of field offices
 - Representative Larson bill, Social Security 2100 Act, H.R. 1902, would make Social Security system solvent for rest of century with no cuts by:
 - Expanding benefits to everyone by changing part of formula, improving cost of living adjustment to more accurate measure, increasing minimum benefit for low earners; and
 - Achieve long-term solvency of the Social Security Trust Funds by making wages over \$400,000 subject to FICA taxes, phase in increased FICA tax rate by 1.2% on both employers and employees, and unifying the OASI and DI Trust Funds into one

Questions?