

August 16, 2002

The Honorable E. Clay Shaw Jr.
Chairman
Social Security Subcommittee
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20501

Attention:
Kim Hildred, Staff Director
Subcommittee on Social Security
B-316 Rayburn House Office Building

Dear Mr. Shaw:

Thank you for the opportunity to respond to questions following my testimony before your committee on July 11th regarding the definition of disability in the Social Security programs. My answers draw on the work of the Disability Policy Panel of the National Academy of Social Insurance (NASI) on which I served. Some of my replies refer to sections of our final report, *Balancing Security and Opportunity: The Challenge of Disability Income Policy*.

1. You mentioned a demonstration project currently ongoing in three states (Wisconsin, Maryland, and Delaware) in which temporary disability benefits are being given. What is the status of this project? Do you think the goals of this project show promise? If so, why?

The demonstration project was authorized under the Ticket to Work and Work Incentive Improvement Act of 1999, which added section 234 to the Social Security Act. It calls for the Social Security Administration (SSA) to carry out demonstrations to evaluate various changes in the disability benefit program and authorized SSA to test interventions with applicants, as well as beneficiaries. The Early Intervention Demonstration to Return Applicants for Social Security Disability Benefits to Work is being designed by researchers affiliated with SSA's Disability Research Institute. Professor Monroe Berkowitz of Rutgers University is leading the design work. In collaboration with SSA, they will select three or four states to pilot test the demonstration early in 2003. A detailed report on the design plan can be found at www.disabilityresearch.rutgers.edu/research.htm. This is the first time that SSA has experimented with offering return to work services to applicants and I look forward to seeing the results.

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2. *You stated in your testimony that in conducting their research on disability income policy, NASI concluded that determining disability should be based on the amount of earnings that an individual is capable of achieving. Can you provide your thoughts as to why determining disability should be based on earnings? Why is it important to use this criterion? What should be the threshold of earnings to determine an individual's capacity to work?*

My main point was that *work disability*—that is loss of capacity to earn a living from work—is the right concept for determining eligibility for wage-replacement benefits from Social Security. This definitional concept fits with the purpose of Social Security, which is to provide income to partially replace lost wages.

The NASI Panel reviewed a range of other disability definitions. It concluded that different definitions are appropriate for programs that offer different kinds of services or benefits. For example:

- A definition based on need for assistance with activities of daily living is appropriate for determining who should receive help in paying for services that assist with these activities.
- A definition based on need for, and likely benefit from, vocational rehabilitation services, is appropriate for deciding who should be eligible for publicly financed VR services.
- A broad definition that encompasses all who are at risk of discrimination in employment or public access is appropriate for defining who is protected by civil rights legislation in the Americans with Disabilities Act.

When the purpose of the program is to provide cash benefits to help people meet their living expenses because of they are unable to earn wages from work, then a definition based on work incapacity is appropriate.

The Panel found that the definition of work disability used in the Social Security program is very strict. It is more stringent than definitions commonly used in private short-term, or long-term disability insurance. It is also more strict than definitions used in many public employee benefit systems for federal, state, or local employees. A less strict definition of work disability for Social Security would allow more people to qualify for benefits and, consequently, would increase the cost of the program. (The Panel's review of other definitions is in chapter 4 of *Balancing Security and Opportunity*, which I submitted for the record.)

3. Do you think it is time to view disability in the context of short-term and long-term? If so, why? What would be the advantages? If not, why not? What would be the drawbacks?

Short-term disability insurance (STDI) is now provided in five State programs: California, Hawaii, New Jersey, New York, and Rhode Island. It is also offered by some employers in other States. Many European countries provide STDI to all their citizens.

Short-term disability insurance has a number of advantages from the perspective of both workers and employers.

- First, STDI provides income continuity for workers when they have health problems that are a temporary impediment to work. The worker retains the job to which he or she is expected to return after full recovery. There is an advantage to the employer and other workers in supporting sick workers while they recover at home instead of “working sick” to the detriment of the productivity, health, and safety of other workers.
- Second, STDI provides support during the first phase of what may turn out to be a long-term, or permanent, impairment. The worker retains a connection to his or her employer and may be able to return to a different job with the same firm when the medical condition is stable.

The NASI Panel found that many American workers lack the protections of short-term disability insurance. Fully 30 percent of private sector employees have neither formal sick leave nor short-term disability insurance. Another 26 percent of such workers have only sick leave, which typically pays for a few days or weeks—far less than the five month waiting period for Social Security disability insurance.

The NASI Panel considered a proposal to adopt universal short-term disability insurance in the United States, but did not recommend it because of its cost. The rationale for such a proposal would be threefold: to fill gaps in income during temporary disability; to promote early intervention by linking workers with return to work services to accommodate permanent impairments; and, it is hoped, to reduce reliance on long-term disability benefits. The main drawback of such a proposal is its cost. One study, done a number of years ago, estimated that such a plan would cost roughly 1 percent of earnings that are subject to Social Security taxes (*Balancing Security and Opportunity*, p. 24).

4. Some have suggested time-limiting benefits to individuals who may need cash assistance while they are participating in vocational rehabilitation services. What are your views on this?

The NASI Panel considered a policy of imposing time limits on Social Security disability benefits, but did not recommend it. Such a policy is very different from short-term disability insurance. Accordingly, it is not likely to have the same advantages unless other features of STDI are also adopted. Key differences between STDI and Social Security disability insurance include the following:

- STDI begins at the onset of disability, or after sick leave has been used, without a 5 month waiting period before interventions begin.
- Ill or injured workers on STDI continue their connection with the current employer. A job remains available for them. DI beneficiaries, in contrast, no longer have a job.
- Employers who provide STDI usually provide health insurance as well. In 2000, just over half (52 percent) of private sector employees were included in their employers' health insurance plans, while about a third (34 percent) were covered by short-term disability benefits (U.S. Department of Labor, 2002). The health coverage continues while the worker is on short-term disability benefits so that he or she has access to treatment. Applicants for Social Security benefits, in contrast, include people who did not have health coverage on their prior job and those who lost health coverage when they left their jobs.
- The definition of disability for STDI is less strict than the Social Security test. It typically relates to "inability to do one's own job" rather than "inability to perform any significant work in the national economy."
- Finally, when private sector return-to-work efforts are not successful, employers or their insurers often help the individual qualify for Social Security benefits. In contrast, if Social Security were time-limited, there would be no other safety net to turn to.

The NASI Panel found that current Social Security policy already has aspects of time limits, which can set an expectation for return to work when that is feasible. That is, when benefits are first allowed, beneficiaries who have some prospects for medical recovery or return to work are scheduled for a continuing disability review (CDR) within the next 1-3 years. During that time, they may get vocational services. When implemented with compassion and integrity, CDR policy can set an expectation of recovery or return to work when that is feasible, while still providing continued support for those who don't recover or find jobs they can do.

There are three other points I would like to make about return to work and Social Security disability benefits. First, the NASI Panel emphasized that the large majority of beneficiaries will not be able to return to work. It is a program for people with very severe and long-lasting impediments to work. The title of our report reminds us of this, *Balancing Security* (for those who can not return to work) *with Opportunity* (for those who can).

Second, it is important to measure our successes well. The return-to-work rate varies greatly depending on the period of time being examined. We often hear a very low return-to-work rate of less than 1 percent. This rate compares the number of people who return to work in a year with the total number of people on the DI rolls that year. But recovery and return to work take time.

The Panel received special tabulations from the Social Security Administration that followed people who entered the DI rolls in a given year over the next 5 to 6 years. These data show more positive results about the fraction of beneficiaries who recovered or returned to work, as well as sobering results about others (*Balancing Security and Opportunity*, page 110). The results are attached as Table 1. Within 5 to 6 years of entering the DI rolls:

- Just over half (53 percent) of people were still on the disability benefit rolls;
- Fully a quarter (26 percent) had died;
- Nearly a fifth (18 percent) had shifted to retirement benefits; while
- About 3–4 percent had recovered or returned to work.

The 3–4 percent success rate may not be as high as some would like, but it is better than the more common figure of less than 1 percent. Perhaps more important, these data show (as we would hope) that younger beneficiaries are the most likely to recover or return to work. When measured as a percent of those who were still alive and not retired, 6 percent of all beneficiaries had left the rolls because of recovery or return to work. They include:

- 11 percent of those under age 40 and
- 13 percent of those under age 30.

The 11–13 percent success rate for young adults leaving the DI rolls is better news than we usually hear. These data covered the period between 1988 and early 1994. During part of that time, SSA had stopped doing continuing disability reviews in order to process a backlog of new claims, because it lacked the resources to do both. It would be useful to know whether results are different now. You could ask SSA to provide this kind of information each year so that policy makers can track how changes in policy, administrative practices, and the broader economy affect recovery and return-to-work rates.

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This brings me to my last point. The NASI Panel urged that SSA be provided adequate administrative resources so that it can fairly and promptly decide new claims and conduct continuing disability reviews as called for in current policy. Failure to properly fund administration ill serves both beneficiaries and taxpayers.

5. It has also been suggested that SSA should refer claimants for vocational rehabilitation when they apply for benefits. What are your views on this issue? Do you believe state vocational rehabilitation bureaus have the resources to potentially serve such an influx of people?

It is clear that State vocational rehabilitation (VR) agencies are not equipped to serve all applicants for Social Security disability insurance and SSI disability benefits. In fiscal year 1999, VR agencies served about 1.2 million people and rehabilitated about 232,000 (U.S. Department of Education, 2001). In fiscal year 2000, SSA received about 1.6 million applications for Social Security disability insurance and about 1.6 million applications for SSI benefits, most of which were for disability (SSA, 2001). (Some individuals may have applied for both types of benefit.) It is highly unlikely that VR agencies could serve more than twice as many people with their current resources. More importantly, many people who receive Social Security or SSI disability benefits are not good candidates for the services State VR agencies offer.

The NASI Panel examined the experience of VR agencies in placing Social Security and SSI beneficiaries and other clients in competitive employment. It found that VR agencies had higher success rates with young adults and that many of the clients they had successfully placed were not receiving Social Security or SSI (*Balancing Security and Opportunity*, table 6-2, page 106). While some have criticized VR agencies for not serving more Social Security and SSI beneficiaries, their results with non-beneficiaries are also important. In many of these cases, VR agencies may be “getting rehabilitation first” so that their clients get the assistive devices and training they need without turning to the Social Security program.

6. Do you believe the Listing of Impairments should be altered in terms of their consideration of prescribed treatment, or the availability of assistive technology or advanced prosthetics in determining disability?

The NASI Panel concluded that listings should be regularly reviewed and updated in light of changes in medical technology, the nature of impairments, and the demands of work. This analysis is discussed in chapter 5 of *Balancing Security and Opportunity*, which I submitted for the record.

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*7. The SSA is faced with a potential problem about how to assess whether an individual would be able to perform any work—part of the criteria for assessing disability. It now uses the Dictionary of Occupations Titles to help assess whether an individual is able to work—but, this source has not been updated since 1991, and the Department of Labor does not plan to update it again. Instead they have created a replacement, called the O*NET—but this does not contain all the detail about the physical or mental demands of any particular job. How would you recommend SSA solve this problem?*

The NASI Panel did not address this specific issue. This is a separate and important question. If the Committee wanted NASI to undertake such a study, I would be happy to propose it to the NASI Board of Directors, on which I serve.

8. Some have suggested that the \$780 substantial gainful activity (SGA) amount for disability is too low to be able to provide an individual with any of the basic necessities, and that it should be raised to the level provided to individuals who are blind, which is \$1,300. What do you think is the right amount that an individual should be able to earn before he or she cannot receive benefits?

NASI's Disability Policy Panel review the SGA threshold and recommended changes in it. At the time, the threshold was \$500 a month. It had remained \$500 since 1990 and had been \$300 between 1980 and 1990. We recommended that the SGA threshold be updated to the amount it would have been had it been indexed to keep pace with wage growth since the beginning of the DI program. That would have been about \$760 in 1996. We further recommended that it be indexed to keep pace with wage growth in the future (*Balancing Security and Opportunity*, pages 159–160). Changes consistent with the Panel's recommendations were adopted in regulations during the 1990s.

To raise the SGA threshold to \$1,300 would enable more people with significant impairments to receive Social Security disability benefits. Consequently, it would increase the cost of the DI program. The NASI Panel considered, but did not recommend, this change because its charge was to propose low-cost ways to strengthen the connection between disability benefits, rehabilitation, and work.

9. It is always helpful to get the perspectives on issues from the private sector. In his testimony, Dr. Anfield provided some interesting recommendations based on his experience in the private sector. His three key recommendations were to:

- *Adopt benefits that emphasize a return to work (providing transitional work funding, partial payment, and rehabilitation services);*

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- *Acknowledge that recovery is incremental (work with individual at every state of recovery to determine the level of functioning); and*
- *Offer expanded definitions of disability so that individuals can focus on becoming self-sufficient.*

Can you provide comments on each of Dr. Anfield's recommendations? Do you think these are valid recommendations? Will they work? If SSA adopts these recommendations into their policy, will claimants benefit?

These recommendations represent enlightened disability management in the private sector. I, too, have private sector experience in disability management. If these initiatives were widely adopted in the private sector, somewhat fewer people would turn to Social Security. As I mentioned earlier, workers with severe impairments turn to Social Security when private disability management efforts don't work or aren't available because employers don't provide private disability insurance and disability management in the first place. I would add that employers and private insurers have flexibility in their policies that is not available in public programs. In the private sector, we can use discretion to offer services and supports over and above those required in our contractual obligations to workers when we believe those efforts will be cost effective. Return to work investments can be cost-effective when workers have special skills that are difficult and costly for the employer to replace. Less skilled workers who are easily replaced by healthy, and perhaps younger and lower paid workers, are not as likely to receive added investments in return to work.

As a public program, Social Security has an obligation to treat all applicants equally. The benefit expansions Dr. Anfield proposes are likely to benefit some Social Security claimants. Others would not benefit. The changes are also likely to increase the cost of the program.

Thank you for the opportunity to respond to these questions. I will be happy to provide any other information that would be helpful to the Committee or its staff.

Sincerely,

Patricia M. Owens
Member
NASI Disability Policy Panel

Enclosures
References
Table 1

References

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**Table 1. Recovery and Return to Work Experience of DI Beneficiaries Over a 5 to 6 Six Year Period
Benefit status in February 1994 of persons awarded benefits in 1988, by age in 1988**

Status in February 1994	Age in 1988						
	Total	Under Age 40			40-49	50-59	60-64
		Total	Under 30	30-39			
Number of persons awarded DI in 1988 (in thousands)	409.1	99.8	36.7	62.9	78.5	146.9	84.1
Total percent	100	100	100	100	100	100	100
Still receiving DI benefits	53	72	74	71	69	60	0
Died	26	19	15	22	27	32	25
Shifted to retirement benefits	18	-	-	-	-	6	75
Recovered or returned to work							0
Percent of total	4	9	11	7	4	2	0
Percent of those alive and not retired	6	11	13	9	5	3	0

Source: *Balancing Security and Opportunity: The Challenge of Disability Income Policy*, Final report of the Disability Policy Panel, National Academy of Social Insurance, 1996, page 110. Special tabulations provided by the Office of Disability, Social Security Administration.