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Social Security Trustees: Disability Insurance Program Solvent Until 2028

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Abstract

Despite an ongoing transfer of about $150 billion from Social Security's retirement program, the Social Security's Disability Insurance (SSDI) program is on course to run dry in 2028, at which point it will be able to pay only about 93 percent of current benefits. Numerous SSDI payroll tax increases and revenue transfers have not been enough to counter the massive growth of the SSDI program, which now covers more than 5 percent of working-age individuals. Substantial inefficiencies, adverse incentives, procedural flaws, and fraud and abuse plague the program and prevent it from serving its intended purpose. Both Congress and the President have unique powers to help return the SSDI program to its original purpose of poverty prevention for individuals who suffer physical or mental limitations that make them unable to support themselves through work. Comprehensive reform must come from Congress and should include transitioning to a flat, anti-poverty SSDI benefit; enacting a needs-based period of disability; and establishing an optional private disability insurance component within the SSDI program. Even without Congress, the President can help improve the program's function and solvency by eliminating non-medical vocational grids from the disability-determination process; enhancing and streamlining the disability-determination hearing process; and using the program's demonstration authority to test potential reforms.

Highlights of Report

The Social Security Trustees released their annual report on July 13, 2017. This marks the first time since the two public trustee positions were added in 1983 that both of those public trustee posi-

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Key Points

- The Social Security Disability Insurance (SSDI) Trust Fund is on track to run out of funds in 2028, at which point benefits would be cut by 7 percent.
- Plagued by a flawed disability-determination process, inefficiencies, adverse incentives, misuses, abuses, and fraud, the SSDI rolls have skyrocketed from 2.6 percent of the working-age population in 1990 to 5.1 percent in 2015.
- A temporary $150 billion cash infusion from Social Security's Old Age and Survivors Insurance (OASI) program prevented SSDI insolvency in 2016 but also sidestepped necessary SSDI reforms and further weakened the financially strapped OASI program.
- Congress should enact comprehensive reforms like shifting the SSDI program to a flat, anti-poverty benefit; implementing a needs-based period of disability benefits; and establishing an optional private disability insurance component.
- The President should direct reforms such as eliminating non-medical factors in disability determinations; improving the hearing process; and using demonstration authority to test potential reforms.

tions are vacant *and* all the remaining *ex officio* trustees signing the report are first-time participants in the report.[1] While the public trustee vacancies leave a gap in the provision of independent advice and expertise, the report still includes the independent analysis provided through the work of the Chief Actuary of the Social Security Administration (SSA).

- According to the Trustees, the Social Security Disability Insurance (SSDI) Trust Fund is on course to run dry in 2028, at which point incoming revenues will be sufficient to cover only 93 percent of expected benefits.[2]

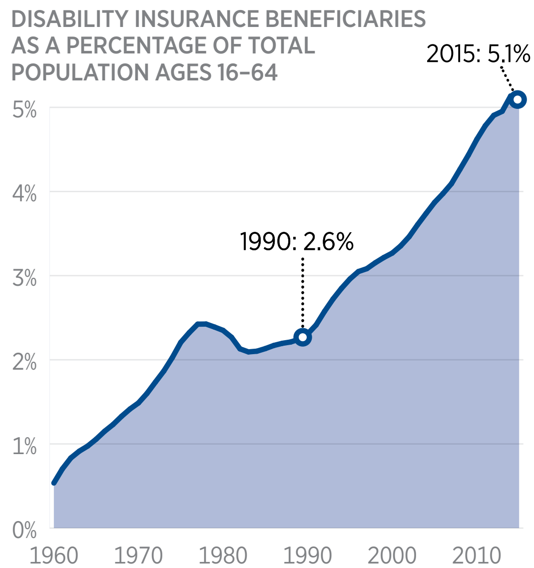
- The report includes a substantial, five-year extension in the SSDI Trust Fund's projected date of insolvency (from last year's projected 2023 date to this year's projected 2028 date), due to an unexpected decline in DI beneficiaries from 8.9 million in 2015 to 8.8 million in 2016. This lower level, combined with a more gradual increase to the same long-run DI incidence rates than previously projected, contributed to the extended date of projected insolvency.

- Currently, the SSDI program is receiving part of the Old Age and Survivors Insurance (OASI) program's revenues, but when that temporary infusion expires in 2019, SSDI's costs will exceed its revenues by $8.9 billion.

- The SSDI program's costs are projected to decline in the short term, from 2.08 percent of payroll in 2017 to 1.95 percent in 2022, as many baby boomers transition from SSDI benefits to OASI benefits. After that, however, costs are expected to increase to at least 2.22 percent of payroll in 2085 and beyond. These current and projected costs are more than four times the SSDI program's initial estimated cost of 0.5 percent of payroll.[3]

CHART 1

More People Receiving Disability Insurance from Social Security



NOTE: Beneficiaries include workers, widow(er)s, and adult children of workers.
SOURCES: Author's calculations based on data from Social Security Administration, *Annual Statistical Report on the Social Security Disability Insurance Program, 2015,* October 2016, https://www.ssa.gov/policy/docs/statcomps/di_asr/2015/di_asr15.pdf (accessed June 26, 2017), and total resident population data from the U.S. Census Bureau.

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What Is Wrong with the Disability Insurance Program?

The Disability Insurance Program has two primary failures—too many people receive benefits and too few leave the rolls and return to work—but countless problems contribute to those two primary failures.

When the federal government established the SSDI program in 1956 with the intent of protecting

1. By law, the Social Security Trust Funds have six trustees including the Secretary of Treasury, the Secretary of Health and Human Services, the Secretary of Labor, the Commissioner of Social Security, and two members of the public who must be of different political parties. *Ex officio* trustees include the four trustees deemed so by their official government positions. The two public trustees are specifically appointed to their roles as trustees.
2. Social Security Administration, *The 2017 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds*, July 13, 2017, https://www.ssa.gov/OACT/TR/2017/tr2017.pdf (accessed July 13, 2017).
3. Social Security Administration, *The 2017 Annual Report of the Board of Trustees.*

disabled workers and their families from poverty, a 0.5 percent payroll tax was considered sufficient to cover the program's costs. Today, however, as the percent of the working age population receiving disability insurance benefits has exploded—from 2.6 percent in 1990 to 5.1 percent in 2015—the program no longer serves only those whose disabilities are so severe that they are unable to support themselves through their own work, but also individuals with marginal disabilities who qualify in part based on criteria wholly unrelated to their disability.

The program's massive growth in awards for difficult-to-verify disorders provides evidence of unwarranted benefit growth. Back in 1960, 8.3 percent of all SSDI awards were for musculoskeletal disorders, compared to 36.3 percent in 2015.[4] Similarly, mental disorders grew from 8.3 percent of awards in 1960 to 15.3 percent in 2015.[5]

In addition to overly generous disability determinations, the SSDI program fails to help people return to work, and it neglects to consistently terminate benefits when individuals' health improves. In 2015, only 0.45 percent of SSDI beneficiaries had their benefits terminated as a result of returning to work (earning above the substantial gainful activity level), and fewer than 0.4 percent had their benefits terminated due to medical improvement.[6]

Outright fraud and abuse, as well as an inefficient and perverse disability-determination process, also plague the program. Misuses, inefficiencies, and abuses within the SSDI program undermine its integrity and financial stability and prevent the program from serving its intended purpose. All these problems serve to hurt truly disabled beneficiaries who face incredibly long wait times and are often stigmatized as unworthy of benefits due to fraud and abuse within the program.

Payroll Tax Reallocation Kicked the Can: No Real Reforms, DI Still Insolvent, and OASI *More* Insolvent

After 11 straight years of costs exceeding income, the SSDI trust fund was on track to run out of funds in 2016.[7] Instead of addressing the program's shortfalls through reforms, Congress punted and allowed the SSDI program to take about $150 billion from Social Security's Old Age and Survivor's Insurance (OASI) or retirement program. The OASI faces its own massive shortfalls—it is just that the OASI program has more reserves on hand at the moment. While DI benefits would have to be cut 7 percent across the board in 2028 when the DI trust fund becomes insolvent, OASI benefits would have to be cut 25 percent when the OASI trust fund becomes insolvent in 2035.[8] The ongoing $150 billion transfer to the SSDI program has further weakened the OASI program, causing it to become insolvent earlier than it otherwise would.

The year 2015 was not the first time the SSDI program faced near-term insolvency and required a transfer from the OASI program. The same thing happened in 1994 when policymakers permanently reallocated a portion of the OASI payroll tax to the SSDI program—providing SSDI with a 50 percent increase in revenues. At the time, the SSDI program was still projected to become insolvent in 2016—precisely when it ultimately would have—so in return for the payroll tax reallocation, policymakers pledged to enact reforms to make it solvent for the long term. As with most punt-and-promise experiences, policymakers failed to follow through after the 1994 reallocation and simply waited until the program faced insolvency again to bail the SSDI program out once more.

Instead of making the SSDI reallocation contingent on meaningful reforms, policymakers did—and have since done—almost nothing to improve the

4. Social Security Administration, *Annual Statistical Report on the Social Security Disability Insurance Program, 2015*, p. 106, Table 40: Distribution, By Diagnostic Group, Select Years 1960–2015, https://www.ssa.gov/policy/docs/statcomps/di_asr/2015/di_asr15.pdf (accessed June 26, 2017).

5. Ibid.

6. The termination figures apply to disabled worker beneficiaries. See Social Security Administration, *Annual Statistical Report on the Social Security Disability Insurance Program, 2015*, p. 131, Table 50: Benefits Terminated for All Disabled Beneficiaries: Number, By Reason for Termination, 2015.

7. SSDI costs exceeded income from 2005 through 2015.

8. The OASI program faces a roughly 24 percent deficit over the next 75 years compared to SSDI's 13 percent deficit. Social Security Administration, *The 2017 Annual Report of the Board of Trustees*, p. 72, Table IV.B6.—Components of 75-Year Actuarial Balance and Unfunded Obligation Under Intermediate Assumptions.

SSDI program's drastic inefficiencies, abuses, and long-run insolvency. Without immediate and significant reforms, the SSDI trust fund will once again face insolvency and likely require yet another transfer from the OASI Trust Fund—something that will further threaten Social Security retirees' benefits.

Real Reforms: What Congress and the President Can and Should Do

SSDI's problems stem from two causes: (1) too many people are enrolled in the program; and (2) too few people leave the program to return to work. Real SSDI reform needs to address both sides of the equation, as well as outright inefficiencies on both ends. Both Congress and the President have the ability to enact meaningful SSDI reforms.

Congressional Action

The most substantial reforms will require congressional action to amend the Social Security Act. Among the things Congress can and should do to improve the SSDI program:

Shift to a Flat, Anti-Poverty Benefit. The SSDI program could better serve its original purpose of poverty protection by providing a flat, anti-poverty benefit. This would lift many disabled beneficiaries out of poverty, ensure the same level of protection for all workers, and appropriately leave the role of income replacement to the private market. This single change would more than solve the program's long-run shortfalls and could reduce workers' SSDI taxes.[9]

Establish A Needs-Based Period for Disability Benefits. Despite varying levels of disability and potential recovery, the SSDI program largely treats all disabilities as permanent. SSDI beneficiaries are supposed to receive regular continuing disability reviews to assess their ongoing disability status, but often these reviews involve nothing more than a check-the-box postcard, asking the beneficiary to confirm that he is still disabled. Congress should establish a needs-based period of disability benefit that aligns individual needs and abilities with benefit provisions to help reintegrate individuals with disabilities into the labor market if their conditions improve.[10] This would mean establishing an expected period of recovery—or lack thereof—alongside beneficiaries' initial disability determination.

Allow an Optional Private Disability Insurance Component. The SSDI program provides benefits to many people who are not truly disabled, while it fails to provide effective disability insurance to those who truly need it. SSDI beneficiaries first have to wait five months after becoming disabled before they can apply for benefits, and then they often have to wait a year or more before receiving a disability determination. This leaves the truly disabled without necessary income support and can cause disability applicants to deteriorate in health, attitude, and employability as they wait for a determination.

Private disability insurance (DI) provides a far superior product. Private DI aims to help workers stay in their jobs or to rehabilitate them into new ones, and it delivers higher benefits at a lower cost than the SSDI program.[11] Policymakers should allow employers to receive a payroll tax credit if they choose to provide their employees with qualified private disability insurance (covering at least the first three years of disability benefits). This could significantly improve the well-being of disabled workers as well as the efficiency and solvency of the SSDI program.

Eliminate the SSA as Middleman in Disability Insurance Representatives' Payments. Currently, more than 90 percent of SSDI claimants are represented at hearings before administrative law judges.[12] Instead of contracting with representatives and paying them after the case is settled, the SSA withholds money from the claimants' benefits and pays

9. Rachel Greszler, "Improving Social Security Disability Insurance with a Flat Benefit," Heritage Foundation *Backgrounder* No. 3068, October 23, 2015, http://www.heritage.org/research/reports/2015/10/improving-social-security-disability-insurance-with-a-flat-benefit.

10. Romina Boccia, "How Do We Get Those Able to Work Off of Disability?" *National Review*, April 9, 2015, http://www.nationalreview.com/article/416680/why-us-should-adopt-needs-based-period-disability (accessed July 7, 2016).

11. Rachel Greszler, "Private Disability Insurance Option Could Help Save SSDI and Improve Individual Well-Being," Heritage Foundation *Backgrounder* No. 3037, July 20, 2015, http://www.heritage.org/research/reports/2015/07/private-disability-insurance-option-could-help-save-ssdi-and-improve-individual-well-being.

12. Government Accountability Office, "SSA Disability Representatives: Fee Payment Changes Show Promise, But Eligibility Criteria and Representative Overpayments Require Further Monitoring," *Report to Congressional Committees*, October 2007, p. 9, Figure 2: Percentage of Claimants with Representation at Their Hearing, Fiscal Years 2000–2006, http://www.gao.gov/new.items/d085.pdf (accessed June 25, 2017).

SSDI representatives directly. By acting as representatives' bill collectors, the SSA's direct payment raises representatives' payments, which increases their supply and can lead some representatives to seek out and encourage potential SSDI beneficiaries to apply for benefits.

Direct payment also diminishes disability applicants' control over representatives' services and fees because representatives bill the SSA directly, even though the money comes out of claimants' benefit checks. Consequently, many SSDI representatives receive significant payments without providing much value to claimants. A 2014 report by the Office of the Inspector General found that only 37 percent of representatives assisted their clients throughout the claim process; 41 percent assisted only with filing the claim; and 22 percent appeared to have not assisted their clients at all.[13] Claimants should be free to choose the types of services they want to purchase and should have control over their own money to make sure they receive the services for which they contract. Congress should eliminate the SSA's role in the payment of SSDI representatives and replace the current mandatory criteria and fee structure for SSDI representatives with an optional certification for SSDI representatives who choose to follow the SSA's requirements.

Presidential Action

Even without congressional action, the President has the power to enact meaningful SSDI reforms. The President should use his authority to:

Eliminate the Vocational Grid Rules. SSDI benefits are supposed to be for people who have physical or mental conditions that prevent them from working. Nevertheless, 40 percent of all SSDI benefit awards rely on non-medical vocational grids that allow individuals to qualify for SSDI benefits based on factors that may have no role whatsoever in their ability to work.[14] For example, the grids say people are disabled if they are limited to sedentary work and are 45 years of age or older and say they cannot speak English, or if they are 50 or older and lack transferable skills. The President's appointed Secretary of Health and Human Services has the authority to (and should) eliminate the non-medical vocational grids from the disability determination process and base determinations exclusively on physical and mental factors that directly affect work capabilities.[15]

Strengthen and Enforce the Five-Day Rule to Close the Evidentiary Record. Timely and complete submission of evidence is necessary for a well-functioning and consistent disability-determination hearing process, and federal law requires that evidence be submitted no later than five business days before a scheduled hearing. Yet, evidence—including large volumes of such—is often submitted within days or hours of the hearing, or even during or after the hearing. Late submissions can unnecessarily delay hearing decisions and further contribute to unfair and inconsistent decision making and case backlogs. The Commissioner of Social Security should chiefly communicate agency commitment and enforcement to the five-day rule for closing the evidentiary record and should strengthen the existing rule to allow exceptions *only* if Social Security's action demonstrably misled the applicant or severe, unexpected, and unavoidable circumstances beyond the applicant's control prevented timely submission. No evidence should be accepted after the hearing begins.

Test an Optional Private Disability Insurance Component. Allowing companies to receive payroll tax credits in exchange for providing qualified private DI would require congressional action. However, the Social Security Administration can use its authority under Section 234 of the Social Security Act to test the viability—including the budgetary impact for the SSDI system and the economic and physical well-being of potential SSDI beneficiaries—of an optional, private DI component. They can do this by setting up a demonstration program that allows a limited number of companies and workers

13. Office of the Inspector General, Social Security Administration, "Audit Report: Claimant Representatives at the Disability Determination Services Level," A-01-13-13097, February 2014, http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-01-13-13097.pdf (accessed July 12, 2017).

14. David R. Mann, David C. Stapleton, and Jeanette de Richemond, "Vocational Factors in the Social Security Disability Determination Process: A Literature Review," Mathematica Center for Studying Disability Policy *Working Paper* No. 2014-07, July 21, 2014, http://www.disabilitypolicyresearch.org/~/media/publications/pdfs/disability/drc_wp_2014-07_voc_factors_determinations.pdf (accessed June 5, 2017).

15. 461 42 U.S. Code § 423(d)(2)(A), and 20 C.F.R. § 404.1520(f).

to participate in an optional private DI system for their first three years of benefits.[16]

Conclusion

The SSDI program is broken: It fails to adequately serve disabled beneficiaries, and it is financially unviable. Allowing SSDI to continue unchecked harms taxpayers who finance the program and beneficiaries who are often stigmatized as a result of fraud and abuse within the program. Moreover, taking funds from the even-more financially strapped OASI program weakens it for current and future retirees. Congress must not delay SSDI reform once again but should act now to address the program's multitude of problems. While comprehensive reform requires congressional action, the President has the authority to enact meaningful reforms that will benefit taxpayers and disabled beneficiaries alike.

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16. Social Security Administration, "Compilation of the Social Security Laws: Demonstration Project Authority," https://www.ssa.gov/OP_Home/ssact/title02/0234.htm (accessed May 20, 2017). The Bipartisan Budget Act of 2015 extended the SSDI demonstration authority through 2021. See Bipartisan Budget Act of 2015, H.R. 1314, 114th Congress, 1st Sess., § 821, https://www.congress.gov/bill/114th-congress/house-bill/1314/text (accessed July 12, 2017).