The Social Security Administration's Efforts to Promote Employment for People with Disabilities

New Solutions for Old Problems

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other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work." The Social Security Amendments of 1972 brought additional changes to DI, including a reduction in the waiting period to begin benefit payments from six to five months, and an extension of the definition of adult children with disabilities to those whose condition developed before age 22 (SSA, 1986).

The most momentous aspect of the 1972 Amendments was the creation of the Supplemental Security Income (SSI) program, which replaced various state programs of public assistance effective January 1, 1974. In contrast to DI, eligibility for SSI payments was needs-based and was available to individuals who had attained age 65 or who had a disability with little income and few resources, regardless of their work history, to ensure that they were afforded a minimum level of monthly income to meet expenses. SSI operated under the same definition of disability used for DI benefits, with a modification for SSI claimants under age 18. Other provisions applicable to DI were incorporated into the new program as well, including the nine-month trial work period and the suspension of benefit payments upon refusal to accept rehabilitation services. Medicare and Medicaid protection for Social Security disability recipients were also provided for the first time as a result of the 1972 Amendments (SSA, 1986).

The number of people on the disability rolls and the costs of both the DI and SSI programs increased substantially during the 1970s. Between 1970 and 1978, the number of workers on the DI rolls nearly doubled, and expenditures quadrupled. It was widely believed that factors such as high unemployment rates, changing attitudes toward disability, high benefit levels for beneficiaries who did not work, and inadequate administrative control were collectively responsible for such unprecedented growth. Consequently, a number of proposals for disability reform legislation were introduced in Congress in the latter half of the decade with the intent of removing the work disincentives that were purportedly built into the disability program, as well as improving program administration (SSA, 1986).

To that end, the Social Security Disability Amendments of 1980 included changes to the DI benefit structure and procedures for strengthening incentives for rehabilitation and return to work. A cap was placed on the benefits that could be paid to DI beneficiaries and their families, to prevent excessive replacement rates from discouraging employment. In addition, work incentives were augmented in both DI and SSI, and those who completed the nine-month trial work period were now provided with an additional 15-month period during which they could test their ability to maintain employment while retaining disability status, with benefits automatically reinstated in the event that the work attempt failed. Furthermore, impairment-related work expenses incurred by the individual were no longer counted when determining whether earnings could be counted as substantial gainful activity (SGA) (SSA, 1986).

In passing the 1980 legislation, Congress also aimed to strengthen federal management of the state disability determination process, eliminating the current system of individual state agreements in order to ensure more efficient and consistent administration of the disability programs throughout the nation. Furthermore, in an effort to maintain the integrity of the disability programs, Congress approved a requirement that the status of all disability beneficiaries be reviewed at least once every three years to assess their continuing eligibility for benefits. Prior to this highly contested change, such continuing disability reviews (CDRs) were only conducted in selected cases where the individual's condition was expected to improve, or where the individual had returned to work. Consequently, the Social Security Administration (SSA) found nearly one in two people reviewed ineligible for benefits, and for many of these people, benefits were terminated. Shortly thereafter, numerous hearings were held regarding the effect the controversial CDRs and subsequent terminations were having on beneficiaries, as well as concerns regarding the standards applied in evaluating disability (SSA, 1986).

In response, the Social Security Disability Benefits Reform Act of 1984 set forth a new standard of review for the termination of disability benefits, making it more difficult to terminate a beneficiary by requiring substantial evidence that an individual's impairments had medically improved to the point where he or she could now perform substantial gainful activity. Furthermore, the Act specified that in determining eligibility, the collective effect of all of an individual's impairments must now be taken into account, even if no single impairment qualified

Successful applicants for benefits receive one of four types of disability payments administered by SSA. The largest program, DI, is authorized by Title II of the Social Security Act. It is paid to former workers who contributed Social Security taxes on work income. The other two disability programs under Title II of the Social Security Act are Disabled Widow(er)s Benefits (DWB) and Childhood Disability Benefits (CDB). These are paid to the survivors or dependents of workers who paid Social Security taxes and then died, became disabled, or retired from the workforce. The fourth disability program, SSI, is a federal poverty program for individuals who are over age 65, blind, or disabled; it is authorized by Title XVI of the Social Security Act. All four programs use the same definition of disability, which follows:

> (a) the law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. To meet this definition, you must have a severe impairment(s) that makes you unable to do your past relevant work (see §404.1560(b)) or any other substantial gainful work that exists in the national economy (20 CFR 404.1503).

Currently, substantial gainful activity is work effort valued above $1,380 per month for blind individuals, and valued above $830 per month for beneficiaries who are not blind (2005 limits). The word "valued" refers to a host of complex work incentives that are used to trim the amount of gross wages earned in a month down to the amount considered to be "countable earnings." The countable earnings are then compared to the financial guidelines for substantial gainful activity (SGA) stated above.

SSI and the Social Security disability programs authorized under Title II of the Social Security Act (DI, CDB, and DWB) are currently the largest federal programs providing cash payments to people with disabilities. In 2002, about 6.5 million persons received Social Security benefits based on disability. This represented an increase from 6.2 million beneficiaries in 2001. In addition, nearly 4.8 million adults and children received SSI due to blindness or disability. The number of blind or disabled adults ages 18 to 64 rose by 1.7 percent between December 2001 and December 2002, while the number under age 18 increased by 3.7 percent. Benefit payments from the DI trust fund increased by 10.2 percent, from $59.6 billion in 2001 to $65.7 billion in 2002. Total SSI payments were $34.6 billion in 2002, up 4.6 percent from 2001 (SSA, 2004b).

Chapter IV identifies a number of disincentives to employment in the current benefit programs, especially the "cash cliff" created by the limitation placed on substantial gainful activity, and the restrictions on asset accumulation in the SSI program. Numerous recommendations are made in this chapter, including post-eligibility elimination of the concept of SGA, expansion of the BPAO program, decreasing the restrictions on assets for SSI beneficiaries, eliminating the waiting period for Medicare benefits for DI beneficiaries, and eliminating marriage penalties.

SSA interfaces with numerous service systems also concerned with the employment and support of individuals with disabilities at the federal, state, and local levels. Chapter V focuses on collaborative interactions with the health care, rehabilitation, employment and training, and education systems, as well as with the business community. In the past 15 years, SSA has been actively engaged in attempting to improve coordination and collaboration with other federal agencies. Yet there continue to be policies among the agencies that work at cross-purposes in promoting employment outcomes for individuals with disabilities. Chapter V includes recommendations for uncoupling Medicare and Medicaid coverage from SSI and DI cash benefit payments. Alternatives to the current systems of health care coverage for beneficiaries are discussed. Also recommended for consideration are changes that would make the Ticket to Work program more functional by promoting collaboration as opposed to competition between state VR agencies and ENs. Additional recommendations attempt to make current TWWIIA programs and provisions more compatible with the One-Stop Career Center system of Department of Labor and more widely used by transitioning youth served by the Department of Education. The final chapter of the report, Chapter VI, is a compilation of the findings, including recommendations that warrant consideration by policymakers responsible for Social Security disability programs.

performing the kinds of work that might be available, given the claimant's age, education, training, and experience.

Over the next half-century, changes in the economy, medicine, and rehabilitative technology have complicated the issue of work incapacity, making it difficult to draw a line between those who can and cannot work. In addition, there have been changes to the legal definition of disability itself to include those under age 50 and replace "long-continued and indefinite duration" with a 12-month minimum. Although the core definition remains unchanged, the context in which it is applied operates very differently.

SSA's current disability programs remain grounded in the "medical model" of disability, in which disability is viewed as biological condition resulting from a cognitive or physical impairment that leaves an individual unable to work. This model does not reflect the new disability paradigm that recognizes the role that the social and physical environments play in the life experiences of people with disabilities (Silverstein, 2000). In a recent study, the GAO summarized its research on the federal disability programs over the past several years and reached the following conclusion:

> GAO's work on federal disability programs, including DI, has found that these programs are neither well aligned with 21st Century realities nor are they positioned to provide meaningful and timely support for Americans with disabilities. Our work suggests that these programs remain grounded in outmoded concepts of disability, and are not updated to reflect scientific, medical, technological, and labor market improvements (GAO, 2005, p. 14).

Rehabilitation and return to work are not recognized objectives of the Social Security disability programs (Social Security Advisory Board, 2003). SSA's return-to-work efforts have had limited results to date, in large part because they have been implemented in a policy and regulatory environment that is over a half-century old.

Finally, the current programs too frequently set eligibility for disability benefits as a precondition for other federal and state programs that can provide the housing, transportation, child care, or personal assistance services and supports necessary to maintain employment and economic independence. Many people with severe disabilities who might otherwise qualify for SSI or DI can and do work full time and do not receive any disability benefits. However, as a consequence of working, these individuals may be unable to access any additional help or support to offset the costs of their disability.

A number of other countries have developed policies and programs that acknowledge that having a disability often leads to additional long-term costs on the part of the individual and his or her family. In contrast to programs designed to replace lost wages (like the DI program), these programs attempt to compensate the individual for the additional costs associated with disability. For example, the United Kingdom's (UK's) disabled person's tax credit (DPTC) is designed to neutralize the costs of having a disability by decoupling the need for help with additional costs from being in actual receipt of disability benefits. To qualify, individuals must have less than £16,000 in savings (about $32,000), so the credit is not geared toward only low-income workers, as is the U.S. earned income tax credit (EITC). The amount of the DPTC depends on the number of hours worked and the severity of the disability, so it applies to individuals working either full or part time. Under the program, individuals with disabilities who work do not have to wait until the end of the tax year to file for retroactive payment or to have it taken off their taxable income, as in the case of the U.S. system. Instead, employers in the UK pay these funds as a supplement to wages right in the workers' paychecks, so that they augment their earnings as they are working.

Policymakers and advocates agree that the all-or-nothing policy premise in the Social Security disability program eligibility requirements creates significant challenges for SSA's return-to-work efforts. Congress and SSA have been unable to overcome the contradictions inherent in designing and providing return-to-work services to beneficiaries who have already been determined to be permanently unable to work within the existing policy framework. For DI beneficiaries, the lack of a gradual reduction in benefits as a beneficiary's earnings increase makes employment a highly risky choice for many individuals. For SSI beneficiaries, the inability to accumulate assets over time makes movement toward economic self-sufficiency

perspectives and self-direction, income issues and incentives, and coordination and collaboration with multiple federal and state systems.

In the area of beneficiary perspectives and self-direction, many of the problems reported by beneficiaries in their daily interactions with SSA are described. These problems include the lack of responsive customer service, inability to obtain accurate and complete information on the effects of employment on benefit level and health care coverage, the devastating effects of overpayments that often occur when a beneficiary attempts to go to work, and the disincentives to marriage in the current program regulations.

The income issues and incentives chapter presents a detailed description of the disincentives caused by SSA's efforts to promote employment opportunities within a system designed for individuals who are permanently retired from the workforce or individuals who are viewed as unable or unlikely to work in the future. Emphasis is placed on the need to eliminate the existing "cash cliff" in the DI program by creating a gradual reduction in benefits as earnings increase, as well as continued attachment to the DI and Medicare programs for DI beneficiaries who maintain employment for extended periods. The chapter also focuses on disincentives in the SSI program that prevent beneficiaries from building the assets necessary for long-term economic self-sufficiency, as well as the complexity of the DI and SSI program rules that make self-directed financial planning extremely difficult for many, if not most, beneficiaries.

In the chapter addressing coordination and collaboration with multiple federal and state systems, we address SSA's current efforts to work collaboratively with public and private health care providers, the federal-state rehabilitation system, the federal employment and training system, the educational system, employers, the business community, and the private insurance industry. The resulting recommendations are based on the premise that the scope and complexity of reforms required to significantly increase employment opportunities for SSA beneficiaries will require concerted efforts by partner agencies providing the rehabilitation, educational, and health care supports required for long-term employment success.

When the DI program was created in 1956, it was designed as a financial support for people over 50 years of age who were forced to permanently leave the workforce prior to retirement age because of a disability (Social Security Advisory Board, 2003). Subsequent programs entitled adults disabled in childhood to receive benefits, and SSI allowed children under age 18 to receive a benefit because of a disabling condition if the family had low income and resources. As the programs expanded, they failed to reflect the huge changes in medical treatment and societal perception of impairment and employment opportunities that have occurred since program inception (GAO, 2004a).

In order to receive benefits, an applicant must define his or her situation in the most negative terms possible — an inability to work, both now and in the future. The applicant must document to the government that he or she is unable to work at any significant level. This process helps to internalize the message that the individual is incapable of working. Once the individual has applied for benefits, disability determination staff affirm that he or she has severe work incapacity, reinforcing socially prevalent negative messages about disability and work. If the individual is not approved for benefits at the initial application level, the person must then proceed through a series of appeal steps in order to obtain essential supports. This process can take years and a significant amount of effort and stress (GAO, 2004a). Once awarded, this hard-fought prize is even more highly valued, and the individual is initially unlikely to jeopardize eligibility by attempting to obtain employment or return to work.

Once determined eligible for disability benefits, beneficiaries face a host of complex program rules and policies related to continuing eligibility for cash benefits and access to health care. Many beneficiaries, confused or uninformed about the impact of employment on their life situations, have shied away from opportunities to become self-sufficient through work. Past efforts of Congress and SSA to encourage beneficiaries to work have included the addition and expansion of work incentive provisions, as well as changes to certain program rules recognized as limiting or negatively impacting beneficiaries. In spite of these efforts, many significant barriers remain.

SSI beneficiaries often live significantly below the poverty level and may slide further into poverty by marriage. Spousal income is deemed to be available to the SSI beneficiary, often causing loss of essential income and health care supports upon marriage to an individual who does not receive SSI. If an SSI-entitled individual marries someone else who is eligible for SSI, there is a status change that lowers the potential SSI benefit to both individuals, increases the reduction in available income caused by work, and significantly increases the risk to health care created by working.

Eligible couple status is assigned to SSI beneficiaries who live together and are married or "holding out" to the community as if they are married. The SSI program treats an eligible couple as one SSI unit. The highest possible federal benefit payment for the eligible couple unit is reduced by one-third from the total combined benefit for two unmarried individuals.

When two SSI recipients become an eligible couple, not only is their maximum combined SSI benefit reduced, but the impact of other income against the potential SSI payment is increased. Each single SSI individual beneficiary receives an exclusion of $20 for all types of income and an additional exclusion of $65 of earned income when SSA determines benefit payments. A couple, however, receives only one $20 and one $65 exclusion. The result is that work has a greater negative impact on SSI benefits received by eligible couples. This creates a disincentive to marry for SSI beneficiaries, a disincentive that is exacerbated by work activity because of potential loss of health care.

Most states offer Medicaid entitlement automatically to SSI beneficiaries. Extended Medicaid for people who work, authorized under Section 1619(b) of the Social Security Act, allows SSI beneficiaries to retain Medicaid entitlement even though they have too much income to receive an SSI cash payment. For Section 1619(b) to apply, the person must meet all other eligibility criteria, such as disability status and resources under the allowable limit. The person may retain Medicaid only if it is the individual's own earned income that causes the loss of entitlement to cash payments. Because SSI is the payer of last resort for basic needs, any income, including the earnings of a spouse, impacts receipt of SSI. If two SSI beneficiaries are married, the income of either member of the couple is counted against the possible benefit of both. What is earned

earned. TWP months occur whenever gross earnings exceed the current TWP guideline, which is $590 for FY 2005. The TWP ends when nine months of TWP-level employment are accumulated within a rolling 60-month period. When the TWP ends, beneficiaries move into the second phase of work incentives, known as the extended period of eligibility (EPE). During this 36-consecutive-month period, beneficiaries retain full benefits until SSA determines that the person is demonstrating SGA-level work. If this level is determined while the beneficiary is in the EPE, benefit payments are due for any month that earnings fall below the SGA guideline.

When a pattern of SGA-level work is demonstrated, beneficiaries are permitted a third work incentive phase, known as the grace period. This allows the beneficiary to retain full benefits for the first month SGA-level work occurred and two following months for a total of three consecutive months. After the EPE ends, the beneficiary may be terminated from the DI program if earnings continue to remain above the SGA guideline. If the grace period is used up during the EPE and the beneficiary subsequently ceases employment or earns less than SGA, benefit checks may resume. However, if the grace period is used up, after the EPE is over, a single month of SGA-level work may cause termination of benefits. The manner in which DI benefits cease entirely when earnings reach the SGA level is often referred to as the "cash cliff."

Studies show that far less than 1 percent of DI beneficiaries return to work and earn at substantial wages (Gerry, 2005). Many benefits experts, as well as the U.S. Government Accountability Office (GAO), have suggested that this cash cliff that creates a clear disincentive to work for most DI beneficiaries (GAO, 1996a; Sheldon and Trach, 1998; National Council on Disability, 1997a; O'Day, 1999). SSA has made an effort to lessen the negative impact of the cash cliff effect by indexing the SGA level annually (starting in 2001); allowing exclusions from countable gross earned income, such as impairment-related work expenses (IRWEs) and subsidies; and averaging earnings over a period of months and allowing short-term unsuccessful work attempts (UWAs). However, many beneficiaries continue to choose not to work for fear of benefit loss, or intentionally suppress their earnings under the SGA amount in order to retain their full DI cash benefit and program eligibility (LaPlante, Kennedy, Kaye, and Wenger, 1996).

While the resource limits of $2,000 for an eligible individual and $3,000 for an SSI eligible couple have not increased since 1989, the SSI program does offer various exclusions to the income and resource rules that allow for some limited asset accumulation. For example, SSI excludes one home of any value as long as the SSI recipient resides in it. In addition, SSI recipients are permitted to own unlimited property essential for self-support (PESS). This includes equipment, real property, or cash accounts that are part of a business for someone who is self-employed. SSI also permits recipients to own one vehicle, which may be of any value if it is needed to get to and from medical appointments or a job, or is modified to accommodate the recipient's disability. It is interesting to note that SSA only allows one house and one vehicle for an eligible couple, which SSA defines as two SSI recipients married to each other. This is one of several marriage penalties built into the income and resource rules for the SSI program and described in detail in Chapter II.

In addition, SSI recipients may use a work incentive known as a Plan for Achieving Self-Support (PASS) to save money or set aside income in order to pay for things needed to attain an occupational goal. Funds set aside under an approved PASS do not count when SSI eligibility determinations are made or when SSA is determining the SSI benefit amount. Unfortunately, few SSI recipients are aware of even the most basic income and resource exclusions described above. Work incentives such as PASS and PESS are long-standing provisions in Social Security policy, but they remain relatively unknown and underutilized.

States have the option to supplement cash benefits to SSI beneficiaries. The option is designed to alleviate poverty and is frequently applied to accommodate the higher cost of living particular to a state or locale. When implementing the state supplement option, states have the right to set their own limits on resources and are not bound to the SSI limit. For example, although federal SSI policy allows $2,000 in countable resources, recipients could be held to a lower resource limit of $1,500 in order to receive the state SSI supplement.

There are additional income and resource tests that individuals must meet to maintain eligibility for optional Medicaid waiver programs, as well as the special extended Medicaid coverage provided to certain former SSI recipients, and the Medicare savings programs in which Medicaid