

TESTIMONY OF
ELIZABETH MCLAREN, PRESIDENT-ELECT
NATIONAL COUNCIL OF DISABILITY DETERMINATION DIRECTORS
TO THE
SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
UNITED STATES HOUSE OF REPRESENTATIVES

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Chairman Johnson, Ranking Member Larson and Members of the Subcommittee:

The National Council of Disability Determination Directors (NCDDD) is honored to submit this witness testimony to comment on issues regarding the eligibility determination process for the Social Security Disability Program. My name is Elizabeth McLaren. I am the current President-Elect of NCDDD and the Director of the Iowa Disability Determination Services (DDS).

NCDDD is a professional association composed of many of the Directors and managers of the DDS agencies located in each state. Collectively, members of NCDDD are responsible for directing the activities of approximately 16,000 plus employees who process nearly 4.7 million claims per year for disability benefits under the Social Security Act. NCDDD's goals focus on establishing, maintaining and improving fair, accurate, timely and cost-efficient decisions to people applying for disability benefits. The mission of NCDDD is to provide the highest possible level of service to persons with disabilities, to promote the interest of the state operated DDSs and to represent DDS Directors, their management teams and staff.

The DDSs work in partnership with the Social Security Administration (SSA) to provide public service to individuals applying for disability benefits and to help ensure the integrity of the disability program. The DDSs make complex medical determinations for the Social Security disability programs pursuant to Federal law and

regulations. The majority of DDS staff members are state employees subject to their individual state personnel rules, governor initiatives and state mandates, with the remainder of staff under state contract to provide services to the DDS. The DDSs adjudicate various disability claims including those for initial claims, reconsiderations, continuing disability reviews (CDRs) and disability hearings.

The Disability Determination Process

The DDSs provide high quality service at the front end of the process and for many applicants the front end is the entire process. For example, in 2016, DDS determinations at the initial and reconsideration steps accounted for 76.7% of all allowance decisions made that year (Title II, Title XVI and concurrent claims), while only 23.3% were made the Administrative Law Judge and Appeals Council steps. DDS allowance accuracy as measured by Social Security's review is very high at over 98.7% for all of the programs. In FY 2016, DDS processing time was 85.6 days for initial claims and 77.1 days for reconsideration claims.

"Quick Disability Determination" and "Compassionate Allowance" (QDD/CAL) claims are a small, but important subset, about 2.3% of the initial workload. Average DDS processing time for these claims is 18.5 days currently. Social Security's predictive modeling software identifies QDD claims by scoring each initial claim on factors related to probable, quickly processed allowances and flags those with the highest scores for expedited processing. In addition, Social Security's software identifies specific medical terms, key words or phrases that indicate a CAL condition and flags these cases for expedited processing.

DDS claim processing time overall is quite fast considering that processing them involves obtaining healthcare records, sending claimants as needed to consultative examinations, analyzing a large volume of medical, functional and vocational evidence, evaluating individuals' symptoms, addressing different medical opinions and determining individuals' remaining function and ability to perform work in the national economy.

Determinations require applying complex law, regulations and policy in each claim and making correct denials as well as allowances. Outcome measures show that the DDSs have historically given the American public prompt, accurate and cost effective service. During fiscal year 2016, the DDSs provided 2,688,977 initial

disability decisions in this manner. The DDSs also provide stewardship oversight by determining continuing medical eligibility and by holding disability hearings for the appeals of those whose benefits are ceased.

The Challenges of staff and resources:

As always, NCDDD members and their DDSs strive to balance the demands of our varied budgeted workloads (initial, reconsideration, continuing disability reviews and disability hearings) with strained resources. The DDSs have historically provided the American public with timely, high quality service even during the hard times when resources are not available. Nationally, the DDSs lost 1,623 employees during the last fiscal year. Of that number, 1,238 were adjudicators, which equates to a lost capacity of over 736,610 claim determinations last year.

We provide this information to illustrate the very real impacts that lack of hiring resources creates in the DDS. Few hires have been available to the DDSs this year and for those that were- most of them have been for critical hires in the DDS where other staff cannot perform the work of the departing employee. Many DDSs are handling the challenges of increased workloads and constant attrition by shifting resources (such as training, mentoring, quality assurance, professional medical relations, consultative examination oversight, supervision and management) to claim processing. However, the DDSs cannot sustain these resource shifts for the long term without serious degradation of public service and program integrity.

NCDDD perspectives on disability process issues for this Subcommittee:

Reinstatement of the reconsideration step to all states

NCDDD recommends consistent policy application across the nation. Therefore, we ask that Congress consider reinstating the reconsideration step in the ten Prototype states. The cost in doing so would be an investment paid for in part by having fewer appeals for ODAR to process. For example, in FY 2016, over 79,799 claimants were allowed at the reconsideration step, an invaluable service to these claimants. Reinstating the reconsideration step in the Prototype states would give citizens in those states the same opportunity to get

benefits sooner at less cost to the system, while allowing the administrative law judges to focus on the claims that truly need their level of legal knowledge and expertise.

NCDDD previously recommended reinstating the reconsideration step during testimony to this committee in 2012. Then and today, we make this recommendation with the caveat that sufficient funding and additional resources must be included. Significant advanced planning, specifically related to the hiring of staff and medical consultants is also necessary for the DDSs to be successful in achieving this goal, as the DDSs are not able to effectuate such a change on short notice.

To illustrate this point, when the Bipartisan Budget Agreement mandated the elimination of single decision maker (SDM), the SSA brought the DDSs in for a face-to-face meeting in Baltimore to generate a plan to ensure the agency would meet the requirements of the Act and eliminate SDM on time. For the reinstatement of reconsideration to the ten Prototype states, NCDDD would recommend this same kind of face-to-face meeting for collaborative development of a plan and a reasonable time-period to reinstate reconsiderations.

Part of this plan must include advanced hiring authority for adjudicators. During fiscal year 2017, the DDSs have faced roughly 15% adjudicator attrition. With limited hires available this year, the DDSs have adjudicator vacancies that remain unfilled. As I am sure this committee is aware, DDS adjudicators are not quickly replaceable employees in the disability process. It takes time and resources to hire the right employees for the job and then a minimum of several years involving continuous training and mentoring before those employees have the knowledge and expertise to handle all claim types independently at full production levels.

In addition to the adjudicator hires, the ten Prototype states will also need to hire additional medical consultants to assist with the reconsideration claims. As with adjudicator hiring and training, sufficient time will be required in order for the DDSs to hire, train and ensure the programmatic accuracy of the medical consultants' assessments. Additional training will also be required for the existing DDS adjudicative staff and medical consultants, many of whom may not have worked a reconsideration claim before. Another factor to consider is the additional office space and equipment necessary to support these new hires. All of these concerns are very

real for the DDSs, specifically the ten Prototype states, and ones that we would hope to mitigate prior to the reinstatement of reconsiderations.

Continue the use of CAL conditions for claim processing

In FY 2016, the DDSs processed 16,636 CAL only claims and 61,712 claims with QDD and CAL. While these numbers represent a small percentage of the volume of initial claims the DDSs will process in a year, NCDDD believes that people with the most severe disabilities are well served by the Compassionate Allowance process therefore, it should continue to be supported, but with some improvements.

NCDDD recommends SSA pursue further refinement of the automated flag process. Social Security's software scans for specific phrases or words that claimants list as their medical conditions on their application for disability benefits, and those phrases or words generates the CAL flag or indicator on the claim. Currently the software sometimes misses a CAL condition due to the way claimants may spell their allegations or incorrectly use a medical term. Claims may come to the DDS marked as CAL incorrectly. As a benefit to the disability process, the resulting flags or indicators propagate claims to the top of an adjudicator's worklist, and this is especially helpful as it directs adjudicators to give those claims priority attention. When the DDS discovers the claim does not meet the criteria for a CAL condition, they then take the steps necessary to remove the flag. While DDS adjudicators do have policy guidance explaining how to add or remove a CAL indicator this is an additional step in the process, defeating the purpose of CAL as a claim processing "expedient".

Given the fact that in some DDSs, there may be claim backlogs or high adjudicator workloads, the flag or indicator will also push these claims to the top of the list for assignment to an adjudicator. The DDS may also use expedited requests for medical evidence from medical providers to receive relevant medical evidence to decide the claim. All of these factors help provide these claimants with faster service.

NCDDD recommends that SSA update the impairment summaries on a continuous basis to ensure the DDSs are using the most relevant, up to date information possible. These impairment summaries provide DDS adjudicators with the relevant information they need to know when making the medical decision on CAL.

claims. This is a helpful tool for adjudicators who may not be familiar with the often uncommon, complex medical conditions these claims present. The summaries provide further benefit as they can save the adjudicator time researching the impairments elsewhere.

Support for the updating of medical listings and regulations

NCDDD is supportive of the recent changes in the mental, neurological, immune/HIV and respiratory medical listings. However, the DDSs faced challenges from the impact of so many listings changes happening relatively close together in time. Rewrites and updates to policy instruction, updating training materials and changes to SSA and DDS legacy systems all must occur when the medical listings change. NCDDD recognizes the need to keep the disability process mirroring change in current medical care and treatment options- however, we would recommend that SSA use a more streamlined and phased in approach for medical listings changes in the future.

NCDDD also supports the March 2017 medical evidence regulation changes regarding acceptable medical sources. The additions of advanced practice registered nurses (APRNs), licensed physician assistants and audiologists to the list of acceptable medical sources are incredibly helpful to the disability adjudication process. These changes will save considerable time and money previously spent on sending claimants to consultative examinations to corroborate the evidence we may have received from their non-acceptable medical treating source. This is helpful to the program and to those claimants who reside in primarily rural areas, where extensive travel to and from the examination would otherwise be necessary.

The impact of SDM elimination on the DDSs

Due to the requirements of the Bipartisan Budget Agreement, the SSA is required to eliminate the use of single decision maker (SDM) authority in the nineteen DDSs that were previously using this authority. Several states have already made this change, and the remaining states are on track to complete their elimination of SDM on time. The nineteen DDSs have used this “tool” for more than 15 years, therefore this change was one that required planning and advanced hiring to handle the additional steps in their adjudication process.

The biggest component to successfully eliminating SDM was the hiring of additional medical consultants in advance to handle the increase in claims review. Some of the SDM states faced serious challenges in hiring these additional consultants due to the limited number of resources available in their states. The SSA ensured funding was available to the states as they were in the recruitment process for additional medical consultants and this has proven to be incredibly helpful.

NCDDD members have reported other varying impacts on the program from SDM elimination. They include delays in processing time due to the hiring and training of new medical consultants, increased costs from those additional medical consultants and the needs of additional workspace and equipment for them, negative impacts on morale and retention of adjudicators losing the SDM authority, as well as a decrease in job grades and salary.

DDSs need to retain disability examiner (DE) authority for QDD and CAL claims

Based on the language and direction of the Bipartisan Budget Act of 2015, SSA will be eliminating the use of the disability examiner (DE) authority for QDD and CAL claims at the end of FY 18. Currently, DDS adjudicators have the authority to decide fast tracked claims independently. The DDSs typically give this authority to those adjudicators who are seasoned, well trained and can work independently without medical consultation on many claims. As needed, adjudicators may request consultation from the DDS medical consultants, but in most cases, it is not required. NCDDD believes that independent disability adjudicator determinations have maintained high accuracy standards with a streamlined business process and cost-effective use of medical consultant time and expertise.

NCDDD believes that this loss of DE authority will have multiple detrimental impacts on the DDS operation. Since it will require significantly more medical consultant time and resources, longer DDS processing time and budget increases are to be expected. In FFY 2016, the DDSs processed roughly 58,763 QDD and CAL claims using the DE authority. Taking those 58,763 claims times the average costs of the medical consultation review costs of \$55.00 per medical review, you can quickly see the cost increases to the program.

Processing time delays are an important factor to consider due to the impact they have on the lives of the claimants we serve. Removing tools that enable the DDSs to provide timely, cost effective, high quality determinations does not serve the public in the best way possible. In addition, negative impacts to the disability adjudicator's morale, job classification and pay scales will affect DDS staffing capacity and quality across the country. We urge this subcommittee to consider a change to this requirement of the Bipartisan Budget Act.

The updating of the Dictionary of Occupational Titles (DOT)

NCDDD supports and recommends the development of a new Occupational Information System to replace the outdated Dictionary of Occupational Titles (DOT) and the Selected Characteristics of Occupations (SCO). Vocational documentation and analysis for the disability program are challenging for DDS adjudicators. Therefore, the updating of the old DOT and SCO to reflect current information about occupations in the national economy would be incredibly helpful for the DDSs. We understand that SSA has been working with the Bureau of Labor Statistics (BLS) but the completion of this update is still years away. BLS must do a great deal of data gathering and analysis and SSA must develop a modern electronic tool to support the vocational assessments required for disability determination. The long timeline for this change is discouraging to the DDS adjudicators who spend much valuable time working through vocational issues on claims supported only by outdated information and antiquated systems not aligned with the legal framework for determining disability.

Conclusion

The DDSs have a long record of partnership and collaboration working with SSA to provide timely, high quality service to the public. Policy changes and technology tools can further improve program efficiency and consistency of public service. As stated in this testimony, NCDDD supports the reinstatement of the reconsideration process in all states, the continued use of CAL conditions for claim processing, the updating of the medical listings and regulations, the continued use of the disability examiner authority for QDD and CAL claims, and the updating of the DOT. The DDSs need these tools to effectively and efficiently serve the needs of the American public, now and in the future.

We would also like to take this opportunity to acknowledge the support former Acting Commissioner Carolyn Colvin provided to the DDS community during her tenure. She was a collaborative partner, who listened to our perspectives and responded to the resource needs of the DDSs to support our mission of serving the American public. We also wish to acknowledge current Acting Commission Nancy Berryhill for her partnership and collaboration with the DDSs as we continue to strive to meet our public service mission.

Mr. Chairman, on behalf of NCDDD, I thank you again for this opportunity to provide testimony on the eligibility determination processes within Social Security's disability program. We will be happy to provide any additional information you need and answer any questions you may have.