

Center for American Progress



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“Protecting the Safety Net From Waste, Fraud, and Abuse”

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Thank you, Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee for the invitation to appear before you today. My name is Rebecca Vallas, and I am the Director of Policy of the Poverty to Prosperity Program at the Center for American Progress.

Without vital programs such as Social Security, nutrition assistance, Unemployment Insurance, and tax credits for working families, America’s poverty rate would be twice as high as it is today, and more than 40 million more Americans would be poor.ⁱ Indeed, using a measure of poverty that takes these and other important programs into account, our safety net cut poverty by more than 40 percent between 1967 and 2012.ⁱⁱ

In addition to mitigating poverty and hardship in the short-term, our nation’s safety net is an investment that pays long-term dividends. For example, a growing body of research finds that children helped by programs such as the Earned Income Tax Credit, or EITC, and the Supplemental Nutrition Assistance Program, or SNAP, have improved health, do better in school, are more likely to graduate high school and attend college, and have increased employment and earnings in adulthood.ⁱⁱⁱ And boosting a child’s family income by just \$3,000 per year is associated with a 17 percent earnings increase in adulthood.^{iv}

A strong safety net is of the utmost importance to all of us as Americans, given that most of us will experience significant economic insecurity at some point during our lives. Indeed, fully half of all Americans will experience at least one year of poverty or near-poverty at some point during our working years. That number rises to 80 percent if you add in those who experience unemployment or need to turn to the safety net for a year or more.^v While staggering, these statistics should come as little surprise given that common life experiences such as job loss, birth of a child, and illness are among the main causes of poverty and hardship.

As we seek to ensure a strong safety net, ensuring program integrity must be a top priority. Thankfully, programs such as Unemployment Insurance, or UI, Social Security Disability Insurance, or Disability Insurance, and Supplemental Security Income, or SSI, are extremely efficient and have very high payment accuracy rates, exceeding 90 percent. Importantly, just a tiny fraction of improper payments in these programs are due to fraud—the vast majority result from administrative error or lack of understanding of complex program rules. We must work together to ensure that payment error rates remain low—and providing the Department of Labor and the Social Security Administration with adequate administrative funding to conduct necessary program integrity activities is of critical importance to achieving that goal.

In addition to keeping fraud and abuse as rare as possible, achieving the goal of program integrity also requires that we ensure that benefits are paid timely to those who are eligible to receive them. Likewise, simplifying the work rules in

Social Security’s disability programs and improving Social Security’s earnings reporting process would make it easier for beneficiaries to work up to their capacity—while reducing needless overpayments. Reforming the SSI asset limits that have not budged in nearly three decades, as the SSI Restoration Act would do, would enable beneficiaries to build modest precautionary savings and to plan for the future—while reducing needless but common overpayments that result when beneficiaries have savings that exceed the artificially low limit of just \$2,000 for an individual. And ensuring that SSI beneficiaries may participate in medical clinical trials without jeopardizing their SSI or Medicaid eligibility, as the bipartisan Ensuring Access to Clinical Trials Act would do, is another commonsense step that would prevent senseless hardship to individuals with life-threatening illnesses, while also reducing needless overpayments.

Importantly, as we strive to keep improper payments rare, we must take a hard look at proposals that aim to enhance program integrity to ensure that they will not lead to unintended consequences that would weaken critical programs and cause significant hardship for struggling individuals and families. And we must acknowledge the critical importance of providing the agencies that administer these vital programs with the administrative resources they need in order to ensure program integrity.

Unemployment Insurance, Disability Insurance, and Supplemental Security Income provide critical protection to American workers and their families

Unemployment Insurance keeps unemployed workers and their families afloat

The Unemployment Insurance, or UI, system was established in 1935 as part of the Social Security Act. UI protects workers and their families against hardship in the event of job loss by temporarily replacing a portion of their lost wages while they seek reemployment. UI is primarily funded by employer contributions via payroll taxes on behalf of their workers. A worker must have worked and paid in to UI in order to receive benefits upon qualifying job loss. She must also have lost a job through no fault of her own, and be “able to work, available to work, and actively seeking work.”

UI is a federal-state program with minimal federal requirements and tremendous state flexibility. States are largely free to set and adjust employer tax rates, benefit levels and duration, and eligibility criteria—for instance, what type of work history is required and what sorts of work search requirements an individual must satisfy in order to qualify for benefits. There is thus considerable variation in state UI programs. Historically states have had maximum benefit durations of 26 weeks or longer. However, in a recent trend, eight states have reduced the number of weeks of benefits available to fewer than 26 weeks, with Florida cutting off benefits at just 14 weeks.^{vi}

Average UI benefit (2014):

\$317 per week

\$1,268 per month

Federal poverty level for a family of 3 (2014):

\$1,649 per month

The recent economic downturn offers a stark reminder of the critical importance of the UI system. While benefits are modest, averaging just over \$300 per week and replacing 46 percent of wages for the typical worker, UI protected more than 5 million Americans from poverty in 2009, when unemployment was at historic heights.^{vii} In addition to mitigating poverty and hardship, UI also functions as a powerful macroeconomic stabilizer during recessions, by putting dollars in the pockets of hard-hit unemployed workers who will then go out and spend them in their local communities. This in turn boosts demand, helping to prevent the spread of job loss. Every dollar of UI is estimated to generate \$1.55 in economic activity,^{viii} and the UI system led to the creation of nearly 2 million jobs at the height of the Great Recession.^{ix} Additionally, UI also prevented 1.4 million foreclosures between 2008 and 2012.^x

Effective as UI is, it fails to reach many unemployed workers in their time of need. As of December 2014, the UI recipiency rate—the share of jobless workers receiving UI benefits—fell to an historic low of 23.1 percent.^{xi} Moreover, the United States has one of the least generous UI systems in the developed world. Jobless benefit programs in European nations and most other OECD member countries programs generally serve significantly larger shares of their unemployed populations, provide benefits that replace a significantly higher share of worker’s previous earnings, and offer benefits for far longer durations than the United States’ UI program.^{xii} Additionally, most other countries require employers to offer severance pay, which comes in addition to jobless benefits.

Social Security Disability Insurance and Supplemental Security Income are critical lifelines

Social Security Disability Insurance has been a core pillar of our nation’s Social Security system for six decades, offering critical protection when Americans need it most. Today, nearly all Americans—90 percent of covered workers ages 21 to 64—are protected by Disability Insurance in the event of a life-changing disability or illness that prevents substantial work.^{xiii} About 8.9 million disabled workers—including more than 1 million veterans—receive Disability Insurance benefits, as do about 149,000 spouses and 1.8 million dependent children of disabled workers.^{xiv} Most Disability Insurance beneficiaries—seven in 10—are age 50 or older, and three in 10 are age 60 or older.^{xv}

Both workers and employers pay for Social Security through payroll tax contributions on the first \$118,500^{xvi} of their earnings each year, of which the bulk goes to the Old Age and Survivors Insurance, or OASI, trust fund, and a small share to the Disability Insurance trust fund. A worker must have worked at least one-fourth of his or her adult years, including at least five of the 10 years before the disability began in order to be “insured,”^{xvii} and beneficiaries have worked on average 22 years before needing to turn to benefits.^{xviii}

The amount of Disability Insurance a qualifying worker receives in benefits is based on his or her prior earnings. Benefits are modest, typically replacing half or less of a worker’s earnings. The average benefit in 2015 is about \$1,165 per month—not far above the federal poverty level for an individual.^{xix} For more than 80 percent of beneficiaries, Disability Insurance is their main or sole source of income.^{xx} Benefits are so modest that many beneficiaries struggle to make ends meet; nearly one in five, or about 1.6 million, disabled-worker beneficiaries live in poverty. But without Disability Insurance, this figure would more than double, and more than 4 million beneficiaries would be poor.^{xxi}

Signed into law by President Nixon in 1972, Supplemental Security Income, or SSI, serves as another core component of our nation’s Social Security system, providing critical financial support to Americans with very limited resources who are elderly or have significant disabilities but who lack a sufficient work history to qualify for Social Security. SSI is a means-tested program, and in order to qualify, an individual must have both very low income and assets (the asset limit is \$2,000 for an individual and \$3,000 for a couple). About 2.1 million low-income seniors age 65 or older receive SSI, as well as 4.9 million non-elderly adults and just under 1.3 million children with significant disabilities or severe illnesses.^{xxii} It is important to note that many SSI beneficiaries, while lacking the necessary work history to be insured for Social Security, have worked and paid into the system but may simply lack the requisite number of quarters or the recent work history that is needed.

The maximum SSI benefit in 2015 is \$733 for an individual, but most beneficiaries receive significantly less. The monthly benefit averaged just \$541 per month^{xxiii}—well below the federal poverty line for an individual—and SSI on its own is not enough to protect someone from poverty. But for the seniors and persons with significant disabilities and severe illnesses who are helped by SSI, it is nothing short of a lifeline, as most have no other source of income.

The modest but vital assistance that these programs provide makes it possible for beneficiaries to live independently, keep a roof over their heads and food on the table, and pay for needed, often life-sustaining, medications. Without these programs, many beneficiaries would be homeless or institutionalized as few have access to alternative sources of support.^{xxiv}

Eligibility criteria are stringent and only workers with the most serious disabilities and illnesses qualify

In order to qualify for Social Security disability benefits, an individual must meet the Social Security Administration’s strict disability standard, which is used for both Disability Insurance and SSI: A disabled worker must be “unable to engage in substantial gainful activity,” or SGA—defined as earning \$1,090 per month for 2015—“by reason of any

Average SSDI benefit (2015):

\$1,165 per month

\$13,980 per year

Average SSI benefit (2015):

\$541 per month

\$6,492 per year

Federal poverty level for an individual (2015):

\$980 per month

\$11,760 per year

medically determinable physical or mental impairment which can be expected to result in death or last for a continuous period of not less than 12 months.”^{xxxv} In order to meet this rigorous standard, a worker must not only be unable to do his or her past jobs, but also—considering his or her age, education, and experience—any other job that exists in significant numbers in the national economy at a level where he or she could earn even \$270 per week.^{xxxvi} Proving eligibility requires extensive medical evidence from one or more “acceptable medical sources” (licensed physicians, specialists, or other approved medical providers) documenting the applicant’s severe impairment or impairments and resulting symptoms.^{xxxvii}

Under this stringent standard, fewer than 4 in 10 of applications are approved even after all levels of appeal.^{xxxviii} Many wait a year—and in many cases much longer—before receiving needed benefits. Underscoring the strictness of the disability standard, thousands of applicants die each year during the eligibility determination process.^{xxxix} Of those who live long enough to receive benefits, one in five Disability Insurance beneficiaries die within five years of being approved^{xxx} and beneficiaries have death rates three to six times higher than other people of their age.^{xxxi}

The OECD describes the U.S. disability benefit system, along with those of Canada, Japan, and South Korea, as having “the most stringent eligibility criteria for a full disability benefit, including the most rigorous reference to all jobs in the labor market.”^{xxxii} Social Security disability benefits are also considerably less generous than most other countries’ disability programs. With Disability Insurance benefits replacing 42 percent of previous earnings for the median earner, and SSI benefits at just three-quarters of the federal poverty line for an individual, the United States is ranked 30th out of 34 OECD member countries in terms of replacement rates.^{xxxiii} Many countries’ disability benefit programs replace 80 percent or more of previous earnings.^{xxxiv}

Social Security disability beneficiaries live with a diverse range of severe impairments and health conditions, such as chronic heart failure, end stage renal disease, multiple sclerosis, advanced cancers, significant intellectual disabilities, and severe mental illness. And while SSA data categorize beneficiaries according to their “primary diagnosis,” many beneficiaries—particularly those with mental and musculoskeletal impairments^{xxxv}—have multiple serious conditions.

Few beneficiaries are able to work at all, but for those whose conditions improve, the Social Security disability programs contain strong work incentives and supports

Social Security Administration policies include strong work incentives and protections to encourage beneficiaries to attempt to return to work. Disability Insurance beneficiaries may earn up to SGA—\$1,090 per month in 2015—without losing any benefits. Those able to earn more than SGA for more than 12 months enter a nearly three-year “extended period of eligibility,” during which they receive a benefit only in the months in which they earn less than SGA.^{xxxvi} Thereafter, if at any point in the next five years their condition worsens and they are not able to continue working above that level, they may return to benefits without having to repeat the lengthy disability determination process.^{xxxvii} These policies are extremely helpful to beneficiaries with episodic symptoms or whose conditions improve over time.

SSI beneficiaries are encouraged to return to work as well. Their benefits are reduced based on their earnings—after the first \$85 of earnings each month, which is not counted against the benefit—but only by \$1 for every \$2 of earnings. Beneficiaries who are able to do some work will thus always be better off with both earnings and a reduced benefit than just the benefit alone.

Yet, unsurprisingly given how strict the Social Security disability standard is, most beneficiaries live with such debilitating impairments and health conditions that they are unable to work at all, and most do not have earnings. According to a recent study using pre-recession data, just 16.9 percent of beneficiaries did any work during the year.^{xxxviii} The vast majority of those who worked earned very little, and just 2.9 percent earned more than \$10,000 during the year—hardly enough to support themselves.^{xxxix}

Notably, if a significant share of Disability Insurance beneficiaries were able to work, one would expect a sizeable percentage to take advantage of the previously described work incentives in order to maximize their earnings without losing benefits. But beneficiaries’ work patterns indicate otherwise. Less than one-half of one percent of beneficiaries maintain a level of earnings just below the substantial gainful activity level.^{xl} Further underscoring the strictness of the Social Security disability standard, even disabled workers who are denied Disability Insurance benefits exhibit extremely low work capacity afterward. A recent study of workers denied Disability Insurance found that just one in four were able to earn more than the substantial gainful activity level post-denial.^{xli}

Growth in Disability Insurance was expected and mostly the result of demographic and labor market shifts

As long projected by Social Security’s actuaries, the number of workers receiving Disability Insurance has increased over time, due mostly to demographic and labor-market shifts. According to recent analysis by Social Security Administration researchers, the growth in the Disability Insurance program between 1972 and 2008 is due almost entirely (90 percent) to the Baby Boomers aging into the high-disability years of their 50s and 60s, the rise in women’s labor-force participation, and population growth.^{xlii} The increase in the Social Security retirement age has been another significant factor. Importantly, as the Baby Boomers have begun to age into retirement, the program’s growth has already leveled off and is projected to decline further in the coming years as Boomers continue to retire.^{xliii}

Moreover, it comes as no surprise—and presents no crisis—that action is needed to address Disability Insurance’s finances by late 2016. In 1995, Social Security’s actuaries projected that the Disability Insurance trust fund would be able to pay all scheduled benefits until 2016, the OASI trust fund until 2031, and the combined trust funds until 2030.^{xliv} The projections in the 2014 Social Security Trustees Report look remarkably similar, with Disability Insurance expected to remain solvent until 2016, OASI until 2035, and the combined funds until 2033.^{xlv} Furthermore, the present situation is nothing new. Since Disability Insurance was established in 1956, Congress has repeatedly rebalanced the trust funds to keep both on sound footing amid demographic shifts and other changes. Rebalancing—by adjusting the share of payroll tax contributions that go into each fund—has occurred in a bipartisan manner repeatedly and whenever needed over the years, with additional revenues being directed to the OASI fund about half the time, and to the Disability Insurance fund about half the time.^{xlvi} Congress has never allowed a drop in scheduled benefits to occur. It should again enact a modest, temporary reallocation to equalize the solvency of the funds, as called for in the President’s FY 2016 budget.

SSI provides a vital lifeline for children with significant disabilities and severe illnesses

Along with Medicaid and the Individuals with Disabilities Education Act, SSI serves as a central pillar of our nation’s current system of family-centered care for children with significant disabilities and severe health conditions. In this system, the primary responsibility for the wellbeing of a disabled child rests with the child’s parents and family. Together, these supports play a fundamental role in making it possible for children with disabilities to live at home with their families and in their communities. In the United States, about 6.6 million—or 9 percent—of school-age children have activity limitations resulting from one or more chronic health conditions.^{xlvii} But just about 1.3 million—or 1.6 percent—of U.S. children receive SSI. The vast majority of children with disabilities do not qualify for SSI either because their disabilities do not meet Social Security’s strict standard or their families do not meet the program’s financial eligibility criteria.

In order to qualify for SSI, a child must have one or more medically determinable physical or mental impairments resulting in “marked and severe” functional limitations; he or she must also live in a family with very low income and less than \$3,000 in assets. According to a 2012 GAO report, SSA has consistently denied a majority of children’s applications for SSI over the past decade using this strict definition of disability.^{xlviii} The maximum monthly benefit is \$733 for 2015, but most children receive less; SSI benefits to children average \$653 per month. SSI helps families meet the additional costs of raising a child with a significant disability; partially offsets lost parental income due to caring for a disabled child; helps families provide basic necessities to care for a disabled child at home instead of in an institution; and assists in providing children with disabilities with a stable, secure home environment and the opportunity for integration into community life, including school as children and work as adults. SSI program rules contain strong work and education supports and incentives to encourage youth with disabilities receiving SSI to gain early work experiences such as internships and summer jobs, to complete high school, and to pursue higher education and training.^{xlix}

We must work together to ensure program integrity and strengthen vital programs

Any instance of fraud or abuse is one too many, and ensuring the integrity of vital programs must be a top priority. While extremely rare, instances of fraud or abuse tend to receive significant attention in the media and risk diminishing the public’s trust in and support for critically important programs. However, in addition to keeping fraud and abuse as rare as possible, achieving the goal of program integrity also requires, for example, that we ensure that benefits are paid timely to those who are eligible to receive them; that backlogs are minimized so that individuals with severe health conditions do not die by the thousands waiting for the benefits they need¹; that state UI phone systems work properly so that

unemployed workers can timely access jobless benefits while seeking to get back on their feet; that beneficiaries do not get hit with large overpayments despite doing everything right and faithfully reporting their earnings; and that program rules are not stuck in the past, preventing beneficiaries from having even modest savings. Moreover, as Congress seeks to ensure program integrity, it is crucial to acknowledge the importance of providing the agencies that administer these vital programs with the administrative resources they need in order to prevent improper payments and conduct critical program integrity work.

Improper payment rates are low and the vast majority are not due to fraud

The states are primarily responsible for program integrity in the UI system, but the Department of Labor, or DOL, works aggressively with states to minimize improper payments. States have two primary program integrity tools: Benefit Payment Control, or BPC, and Benefit Accuracy Measurement, or BAM. Each state has a BPC unit dedicated to preventing, detecting, investigating, and recovering improper payments. Additionally, state BAM units are charged with conducting rigorous investigations of a random sample of claims to measure the accuracy of UI benefit payments. BAM investigations serve as the basis for estimates of UI improper payments.^{li} DOL has an array of additional program integrity activities underway, such as increased use of data analytics; development of an automated data exchange to promote the receipt of timely information from employers to verify reasons for separation and earnings upon returning to work; and the recent establishment of the UI Integrity Center of Excellence in cooperation with the New York State Department of Labor.^{liii}

In 2014, UI's net payment accuracy rate was over 91 percent.^{liii} Excluding improper payments due to states' increasingly complex work search requirements, the net payment accuracy rate was over 92 percent.^{liv} Importantly, the vast majority—75 percent—of improper payments are not due to fraud, and overpayments due to fraud equal 3.19 percent of all benefits paid.^{lv} Moreover, the UI system is very effective at recovering improper payments: Two-thirds of established overpayments were recovered in 2013.^{lvi} Notably, the rate of improper payments is dwarfed by the share of unemployed workers who are eligible for but do not collect UI benefits. According to analysis published by the Federal Reserve Bank of St. Louis using DOL data, roughly half of jobless workers eligible for UI claimed benefits. If all unemployed workers eligible to collect UI were to do so, the additional expenditures from these “unclaimed benefits” in 2009, near the end of the Great Recession, would have been nearly seven times that year's rate of improper payments.^{lvii}

The Social Security Administration, or SSA, operates similarly rigorous program integrity activities. For example, SSA conducts reviews of at least half of all allowances at the initial and reconsideration levels for both Disability Insurance and SSI disability benefits, before benefits are paid. SSA maintains multiple levels of quality review for its state Disability Determination Services, or DDSs, and operates an Office of Quality Performance, or OQP, which conducts quality assurance reviews of samples of initial and reconsideration determinations. The SSA Office of Disability Adjudication and Review, or ODAR, operates a Quality Review initiative, which reviews samples of favorable Administrative Law Judge, or ALJ, decisions before benefits are paid, as well as samples of favorable ALJ decisions after the fact to assess compliance with agency policy. SSA is required to conduct continuing disability reviews, or CDRs, in all cases where improvement in a beneficiary's condition is considered possible. Additionally, SSA's Office of the Inspector General, or OIG, operates an array of activities to detect and root out potential fraud. For example, SSA and the OIG jointly run the Cooperative Disability Investigations program, with CDI units in more than 25 states investigating individual disability applicants and beneficiaries, as well as third parties, for potential fraud.

The SSI overpayment accuracy rate in FY 2014 was 93 percent. The leading causes of SSI improper payments are financial accounts—i.e. where an applicant or recipient exceeds the allowable resource limit of \$2,000 for an individual or \$3,000 for a couple—and wages.^{lviii} The Disability Insurance overpayment accuracy rate was even higher, at 99 percent. As with UI, the vast majority of overpayments in Social Security's programs are not due to fraud. For example, as discussed below, delays in processing beneficiaries' earnings reports and adjusting benefits accordingly can result in substantial overpayments despite beneficiaries having faithfully reported their earnings.

Adequate administrative funding is needed to ensure program integrity

State UI administrative funding is paid for by the Federal Unemployment Tax Act, or FUTA, a 0.6 percent federal tax that employers pay on the first \$7,000 of wages (or \$42 per worker) each year. Despite this dedicated source of funding, the allocations that the states receive to administer their UI programs has been eroding for the past two decades. As the National Association of State Workforce Agencies noted in a 2013 report:

States argue that even in good economic times they do not receive enough administrative funds to administer their programs as well as they would like. Since 1995, the federal government has not adjusted grants to states for administration of their UI programs for inflation (except for the one percent increase in fiscal year 2010). When adjusted for inflation and normalized at a base two million average weekly insured unemployment level, base funding for State UI Administration is at its lowest level since 1986.^{lix}

Insufficient administrative funding has resulted in staffing shortages at state agencies and substantial deterioration in customer service. For example, when Pennsylvania's Department of Labor closed a UI Claims Center in 2012, thousands of jobless workers trying to access their needed benefits via the state's phone system were confronted with endless busy signals—literally for days on end.^{lx} Similarly catastrophic systems breakdowns have occurred across the country.^{lxi} And insufficient administrative funding contributes directly to improper payments.^{lxii}

SSA's administrative costs are less than 1.3 percent of the benefits it pays out each year.^{lxiii} In recent years, SSA's administrative budget has been significantly underfunded. Congress appropriated over \$1 billion less for SSA's Limitation on Administrative Expenses (LAE) than the President's request between FY 2011 to FY 2013. Additionally, in FY 2012 and 2013 Congress appropriated nearly half a billion dollars less for the agency's program integrity activities (such as continuing disability reviews and SSI redeterminations) than the Budget Control Act of 2011 authorized.^{lxiv} As a result, during a time of increasing workload due to the Baby Boomers entering retirement and their disability-prone years, the agency lost over 11,000 employees—a 13 percent drop in its workforce—hampering the agency's ability to serve the public and keep up with vital program integrity activities.^{lxv} In a positive step, the FY 2014 budget bill provided the agency with full funding at the FY 2014 Budget Control Act levels for program integrity activities.^{lxvi} But in FY 2015, SSA received \$218 million less for LAE than the President's request.^{lxvii} This directly translates into diminished capacity for program integrity efforts. The President's FY 2015 budget request would have allowed SSA to complete 98,000 more continuing disability reviews and 367,000 more SSI redeterminations during this fiscal year.^{lxviii}

SSA requires sufficient administrative funding in order to make timely and accurate benefit payments and to serve the public. Adequate resources support claims processing and disability determinations at the initial levels so that the right decision can be made at the earliest point in the process and needless appeals can be avoided. Additionally, adequate resources are needed to address the tremendous backlogs that have emerged at the ALJ hearing level. The average wait time for an ALJ hearing is well over a year—and closer to two years in many hearing offices—and as noted previously, thousands of applicants die each year waiting for much-needed benefits.^{lxix} And callers encounter frequent busy signals and lengthy wait times to get through to a call center representative on SSA's 1-800 number.

Adequate administrative funding is also required for the agency to ensure that benefits are paid to the right person, in the right amount, at the right time. For example, SSA reports that the average processing time for beneficiaries' earnings reports is 270 days, which results in large and preventable overpayments, and can be tremendously disruptive to beneficiaries who are all of a sudden—through no fault of their own—hit with an overpayment that they are required to repay. Adequate resources are also needed to perform continuing disability reviews, which are estimated to save \$9 in benefits for every \$1 spent on reviews; the agency currently has a backlog of nearly 1.3 million reviews due to inadequate funding.^{lxx} Providing the agency with adequate administrative funding to keep up with its workload and conduct critical program integrity activities—as the Social Security Fraud and Error Prevention Act championed by Rep. Becerra and Ranking Member Doggett would do—should be a commonsense, bipartisan step.

Commonsense steps would strengthen programs and reduce improper payments

In addition to providing the agencies charged with administering these programs with adequate administrative resources, there are several commonsense steps that would strengthen and simplify vital programs while also reducing improper payments. For instance, simplifying the work rules in Social Security’s disability programs would make it easier for beneficiaries to work up to their capacity—while reducing needless overpayments. Several proposals for a benefit offset in the Disability Insurance program merit consideration, such as the Work Incentive Simplification Proposal, or WISP, as well as the benefit offset proposal outlined by the Consortium for Citizens with Disabilities.^{lxxi}

Additionally, improving Social Security’s earnings reporting and recording system, including providing for online wage reporting for both Disability Insurance and SSI beneficiaries, would also help to prevent overpayments stemming from failure to adjust benefits based on beneficiaries’ earnings. And SSA should consider using its continuing disability review enforcement model to help prevent overpayments before they happen. Currently, SSA uses a computer algorithm to determine which cases should be prioritized for review. SSA should also use it to identify the beneficiaries most in need of counseling about their benefits, to prevent overpayments rather than just to detect them after the fact.

Furthermore, reforming SSI’s outdated asset limits—which have scarcely budged since the program’s establishment in 1972—would enable beneficiaries to build modest precautionary savings and to plan for the future, while reducing the needless but common overpayments that result when beneficiaries have savings that exceed the artificially low limit of just \$2,000 for individuals and \$3,000 for couples (or disabled children living with their families). In recognition of the need to reform SSI’s counterproductive asset limits, the SSI Restoration Act would raise the asset limits to \$10,000 for individuals and \$15,000 for couples (and disabled children living with their families), and index the limits to inflation. Education and retirement savings should also be excluded from counting against the SSI asset limit, to enable recipients to access education and skills development and to plan for a modest retirement.^{lxxii} The Achieving a Better Life Experience, or ABLE Act, which was enacted last year with overwhelming bipartisan support in both the House and Senate, is evidence of the widespread bipartisan support that exists for enabling youth and adults with disabilities to build savings.

Worth noting, the SSI Restoration Act would also update key components of how the program counts beneficiaries’ income for purposes of determining the amount of their SSI benefit, which would further promote work while reducing overpayments.^{lxxiii} And the bipartisan Ensuring Access to Clinical Trials Act would ensure that SSI beneficiaries may participate in medical clinical trials without jeopardizing their SSI or Medicaid eligibility. This legislation would prevent senseless hardship to individuals with life-threatening illnesses, while also reducing needless overpayments.

Program integrity measures must take care to avoid unintended consequences

Importantly, as we strive to keep improper payments rare, we must take a hard look at proposals that aim to enhance program integrity to ensure that they will not lead to unintended consequences that would weaken critical programs and cause great hardship for struggling individuals and families. Several of the proposals being discussed today raise significant concerns along these lines.

H.R. 2511 (the “SAIL Act”) takes the wrong approach

For example, H.R. 2511, the School Attendance Improves Lives, or SAIL Act, the stated purpose of which is to boost school attendance by youth with disabilities receiving SSI, raises significant concerns. Education is the key to success, and ensuring that all young people have access to a high-quality education must be a foremost national priority. However, the SAIL Act would penalize our nation’s most vulnerable youth—those with significant disabilities and severe health conditions—for experiencing interruptions in their schooling. Youth who receive SSI may experience school absences for many legitimate reasons, and could experience significant hardship due to loss of benefits.

Many SSI beneficiaries are too sick for full-time school. According to the National Survey of SSI Children and Families, 14 percent of SSI beneficiaries ages 13 to 17 were hospitalized at least once in the prior year, 4.9 percent were hospitalized three or more times, 36.9 percent made at least one visit to an emergency room, and 39.3 percent had at least

five doctor’s appointments.^{lxxiv} When these obligations are combined with speech, physical, occupational, respiratory, mental health, and other types of therapy, along with times that a child is too fatigued, ill, or in pain to attend school, it is not surprising that children with disabilities may incur absences from school. Indeed, many SSI child beneficiaries are terminally ill, and school attendance must take a backseat to medical and palliative care. In 2013, the SSI benefits of 4,484 children—nearly 7 percent of the SSI childhood caseload—were terminated because the child died.^{lxxv}

Moreover, homelessness and poverty can lead to interruptions in school enrollment and attendance gaps. Households in poverty—such as families of children who receive SSI—experience extremely high rates of geographic mobility and a high risk of homelessness.^{lxxvi} Gaps in school attendance may occur due to frequent moves, inability to meet enrollment requirements (proof of residency, legal guardianship, health records, etc.), lack of transportation, and the need to put in place services and supports under an Individualized Education Plan following a move to a new school district. And while the number of youth ages 16 and 17 who are homeless and receive SSI is unknown, in the 2012-2013 school year 16 percent of homeless students in public schools received Individuals with Disabilities Education Act (IDEA) services.^{lxxvii}

Additionally, students with disabilities are substantially more likely to be bullied than their peers without disabilities.^{lxxviii} Children and youth who are bullied are more likely to have school absences, and in some cases parents may seek alternate placements in different schools in order to keep their children safe, potentially leading to gaps in school enrollment.^{lxxix}

Furthermore, students with disabilities are disproportionately likely to be suspended or expelled from school. According to UCLA’s Civil Rights Project, 13 percent of children with disabilities were disciplined with at least one out-of-school suspension in the 2009-10 academic year—nearly twice the rate of children without disabilities.^{lxxx} More than 6 percent of children with disabilities were suspended more than once, and suspension rates are even higher among children of color with disabilities. The SAIL Act would increase the financial burdens that disability and school discipline place on struggling families by removing SSI when a student is suspended, whether the reason for the suspension is just or unjust.

These are just a few examples of why removing a disabled child’s needed SSI benefits due to school absences is the wrong approach and would lead to significant if unintended hardship for youth with disabilities and their families. Rather than penalizing students with disabilities for school absences, policymakers should focus on enhancing and promoting SSI’s work and education supports, informed by the results of the Youth in Transition Demonstration and the PROMISE Initiative, both of which are currently exploring options to more effectively support transition-age youth receiving SSI. Additionally, policymakers should prioritize expanding access to vocational rehabilitation for transition-age youth, by enabling youth under age 18 to access VR services to allow for a seamless transition from special education to vocational programs, and boosting investment in VR to address lengthy wait lists.^{lxxxi}

H.R. 918 (the “Double Dip Elimination Act”) would reduce disabled workers’ financial security and penalize work attempts

Policymakers and elected officials on both sides of the aisle have long shared the goal of helping people with disabilities work. However, H.R. 918, the Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act, which would cut Disability Insurance benefits for individuals who attempt to return to work, represents a step in the wrong direction that would undermine this bipartisan objective. Proponents of this measure say it is needed to prevent “double dipping.” However, cutting benefits for disability beneficiaries who lose a job through no fault of their own and must turn to UI to partially replace their lost wages would punish them for attempting to return to work and push them and their families deeper into poverty.

As detailed above, Social Security’s disability programs contain strong work supports and incentives for those who may be able to return to work as their conditions improve. As a result, disability beneficiaries may experience job loss that would legitimately enable them to qualify for UI. If beneficiaries attempt to return to work and subsequently get laid off from their part-time jobs, they may qualify for UI just like any other similarly situated worker. However, H.R. 918 and other similar proposals would punish disability beneficiaries for attempting to return to work—as they are encouraged by law to do—by cutting their Social Security benefits or by putting them at risk of losing their eligibility for benefits entirely.

As noted previously, Social Security disability benefits are extremely modest. Disability Insurance benefits average \$1,165 per month, just over the federal poverty line, and 1.6 million disabled workers receiving Disability Insurance—or one in five—already live in poverty. Without Disability Insurance, more than 4 million current disabled-worker beneficiaries would be poor.^{lxxxii} According to the Government Accountability Office, for the less than 1 percent of individuals served by Disability Insurance or UI who qualify for benefits under both programs, the average quarterly combined benefit in FY 2010 was \$3,300—or just \$1,100 per month.^{lxxxiii} These modest benefits provide nothing short of a lifeline for disabled workers and their families when they need it most. Yet the cuts proposed by H.R. 918 would push disabled workers and their families into or deeper into poverty, jeopardizing their ability to keep a roof over their heads and afford needed, often life-sustaining medications.

Finally, Americans must work and pay into the UI system in order to receive benefits in the event of a qualifying job loss. Yet the cuts proposed by H.R. 918 single out disability beneficiaries for second-class treatment under the UI program, denying them the protection they earned and penalizing them for trying to return to work. Disability beneficiaries who lose a job and qualify for unemployment insurance should not be treated differently from other workers; they should be permitted to access the modest benefits they have worked hard to earn.

Supporting work by people with disabilities has long been a bipartisan priority. But by cutting vital benefits for disability beneficiaries who seek to return to work and lose a job through no fault of their own, H.R. 918 marks a significant step backward. In order to give people with disabilities a fair shot at employment, policymakers should focus on removing barriers instead of cutting already meager Social Security disability benefits. For example, raising the minimum wage, strengthening the Earned Income Tax Credit for workers without qualifying children, ensuring paid leave and paid sick days, expanding Medicaid in the nearly two-dozen states that have declined to do so, and increasing access to long-term services and supports would allow more people with disabilities to enter and remain in the workforce.^{lxxxiv}

H.R. 2504 (the “CUFF Act”) would be a step backward

The Social Security Act prohibits individuals who are fleeing to avoid law enforcement from receiving benefits under any of Social Security’s programs. Previously, SSA implemented this provision of the Act by suspending or denying Social Security benefits anytime there was an outstanding arrest warrant, regardless of whether or not the individual had any knowledge of the charges against them. SSA frequently suspended or denied benefits in cases where warrants were so old and so minor that the law enforcement entity that had issued the warrant had no intention of pursuing it. SSA also frequently denied benefits in cases of mistaken identity—for example, Rosa Martinez, a 52-year-old disabled woman who in 2008 was notified that she would lose her disability benefits because of a 1980 arrest warrant for a drug offense in Miami, Florida. (Ms. Martinez had never been arrested in her life, had never used illegal drugs, and had never even been to Miami. She was also 4 foot 10, fully eight inches shorter than the individual identified in the warrant at a height of 5 foot 6.)^{lxxxv} After two class action lawsuits challenged SSA’s policy, it was found to be overbroad and in violation of the Social Security Act. SSA now appropriately suspends or denies benefits only in cases where an individual is actually fleeing to avoid law enforcement. The CUFF Act would mark a return to a failed, overbroad policy.

Conclusion

As we seek to ensure a strong safety net, ensuring program integrity must be a top priority. Thankfully, the UI, Disability Insurance, and SSI programs are extremely efficient and have very high payment accuracy rates, exceeding 90 percent. We must work together to ensure that payment error rates remain low—and providing DOL and SSA with adequate administrative funding is of critical importance to achieving that goal. Likewise, steps such as simplifying the work rules in Social Security’s disability programs, improving Social Security’s earnings reporting process, harnessing predictive modeling to prevent overpayments before they happen, and reforming SSI’s asset limits would strengthen Social Security’s programs while reducing needless overpayments. Importantly, as we strive to keep improper payments rare, we must take a hard look at proposals that aim to enhance program integrity to ensure that they will not lead to unintended consequences that would weaken critical programs and cause significant hardship for struggling individuals and families. And we must acknowledge the critical importance of providing the agencies that administer these vital programs with the administrative resources they need in order to ensure program integrity.

Endnotes

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- ⁱⁱ Christopher Wimer et al., “Trends in Poverty with an Anchored Supplemental Poverty Measure,” (December 2013), available at http://socialwork.columbia.edu/sites/default/files/file_manager/pdfs/News/Anchored%20SPM.December7.pdf; see also Yonatan Ben-Shalom et al., “An Assessment of Antipoverty Programs in the United States,” *The Oxford Handbook of the Economics of Poverty* (Nov. 2012), available at <http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780195393781.001.0001/oxfordhb-9780195393781-e-22>.
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- ^{iv} Greg J. Duncan and Katherine Magnuson, “The Long Reach of Early Childhood Poverty,” *Pathways*, Winter 2011, http://www.stanford.edu/group/scspi/media/pdf/pathways/winter_2011/PathwaysWinter11_Duncan.pdf.
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- ^x Joanne W. Hsu et al., “Positive Externalities of Social Insurance: Unemployment Insurance and Consumer Credit” (NBER: July 2014), available at <http://www.nber.org/papers/w20353.pdf>.
- ^{xi} Rick McHugh and Will Kimball, *How Low Can We Go? State Unemployment Insurance Programs Exclude Record Numbers of Jobless Workers* (Economic Policy Institute, March 2015), available at <http://www.epi.org/publication/how-low-can-we-go-state-unemployment-insurance-programs-exclude-record-numbers-of-jobless-workers/>.
- ^{xii} For example, France’s equivalent program replaces 67 percent of wages for the typical worker; Canada’s, 63 percent; and the Netherlands’, 70 percent. The Netherlands provides jobless benefits for up to 38 months, and Germany up to 18 months. See Organisation for Economic Cooperation and Development, *OECD Reviews of Labour Market and Social Policies* (2010); see also Wayne Vroman and Vera Brustenstein, *Unemployment Compensation Around the World: A Comparative Analysis* (2005).
- ^{xiii} U.S. Social Security Administration, “Fact Sheet on the Old-Age, Survivors, And Disability Insurance Program,” available at <http://www.ssa.gov/OACT/FACTS/> (last accessed June 1, 2015). Some state and local employees are not covered for Social Security. For a discussion of who is and is not covered, see Alicia H. Munnell, “Mandatory Social Security Coverage of State and Local Workers: A Perennial Hot Button” (June 2005), available at http://crr.bc.edu/wp-content/uploads/2005/06/ib_32.pdf.
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- ^{xv} Upon reaching full retirement age, DI beneficiaries convert to Social Security retirement benefits.
- ^{xvi} The payroll tax cap is adjusted annually. It is \$118,500 for 2015. Social Security Administration, “Contribution and Benefit Base,” available at <http://www.ssa.gov/oact/COLA/cbb.html#Series>.
- ^{xvii} National Academy of Social Insurance, “What is Social Security Disability Insurance?,” available at <http://www.nasi.org/learn/socialsecurity/disability-insurance> (last accessed June 2015).
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- ^{xxi} Authors’ calculation based on Ibid.
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^{xxvi} *Code of Federal Regulations*, title 20, sec. 416 (960)

^{xxvii} Evidence from other providers, such as nurse practitioners or clinical social workers, is not enough to document a worker's medical condition. Statements from friends, loved ones, and the applicant are not considered medical evidence and are not sufficient to establish eligibility.

^{xxviii} U.S. Social Security Administration, *Annual Statistical Report on the Social Security Disability Insurance Program, 2013* (2014), table 60, available at http://www.ssa.gov/policy/docs/statcomps/di_asr/2013/sect04.pdf and *SSI Annual Statistical Report, 2013* (2014), table 69, available at http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2013/sect10.pdf.

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ⁱⁱ See U.S. Dept. of Labor, Office of the Inspector General, *Inspector General's Top Management Challenges Facing the Department of Labor* (November 2014), available at <https://www.oig.dol.gov/public/topchallenges/2014.pdf>.

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ⁱⁱⁱⁱⁱ In 2014, the total UI improper payment rate, not taking into account recovered payments, was 11.57 percent. After counting recovered overpayments, the net improper payment rate was 8.65 percent. U.S. Dept. of Labor, Office of the Inspector General, *Inspector General's Top Management Challenges Facing the Department of Labor*.

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^{lxiv} See Acting Commissioner of Social Security Carolyn Colvin, Testimony before the U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Social Security, February 26, 2014, available at http://www.ssa.gov/legislation/testimony_022614.html.

^{lxv} Ibid.

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^{lxviii} Ibid.

^{lxix} See sources cited supra note xxix.

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^{lxxi} For more information on the WISP proposal, see the report of its technical advisory panel, available at <http://www.ssa.gov/disabilityresearch/documents/WISP-final%20report-5-1-12COMPLETE.pdf>. For more information on CCD’s benefit offset proposal, see http://www.c-c-d.org/fichiers/CCD_Final_Benefit_Offset_Proposal.pdf. Notably, Congress needs to restore SSA’s Title II (Disability Insurance) demonstration authority to permit the agency to evaluate approaches to strengthen and simplify its programs’ work incentives. The agency currently has demonstration authority for the SSI program, but demonstration authority for the Disability Insurance program expired in 2005.

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^{lxxvii} Education for Homeless Children and Youth, Consolidated State Performance Report Data, table 4, available at <http://center.serve.org/nche/downloads/data-comp-1011-1213.pdf>.

^{lxxviii} Jamilia J. Blake et al., National Prevalence Rates of Bully Victimization Among Students With Disabilities in the United States, *School Psychology Quarterly*, 2012, Vol. 27, No. 4, 201-222. <http://psycnet.apa.org/journals/spq/27/4/210/>

^{lxxix} See, e.g., U.S. Department of Education, Office of Special Education and Rehabilitative Services, 2013 Dear Colleague Letter on Bullying of Students with Disabilities, available at <http://www.ed.gov/policy/speced/guid/idea/memosdcltrs/bullyingdcl-8-2013.doc>; American Psychological Association, Bullying and School Climate, <http://www.apa.org/about/gr/issues/cyf/bullying-school-climate.aspx>; National Council on Disability, Bullying and Students with Disabilities, 2011 briefing paper <http://www.ncd.gov/publications/2011/March92011>.

^{lxxx} Daniel J. Losen and Jonathan Gillespie, *Opportunities Suspended: The Disparate Impact of Disciplinary Exclusion from School* (UCLA: Sept. 2012), available at <http://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/upcoming-crrr-research/losen-gillespie-opportunity-suspended-2012.pdf>

^{lxxxi} For a full set of recommendations to strengthen the SSI program for transition-age youth with disabilities, see Vallas and Fremstad, “Maintaining and Strengthening Supplemental Security Income for Children with Disabilities.”

^{lxxxii} Vallas and Fremstad, “Social Security Disability Insurance: A Bedrock of Security for American Workers.”

^{lxxxiii} U.S. Government Accountability Office, “Overlapping Disability and Unemployment Benefits Should Be Evaluated for Potential Savings,” (July 2012), available at <http://www.gao.gov/assets/600/593203.pdf>.

^{lxxxiv} For a full set of recommendations to give workers with disabilities a fair shot at employment and economic security, see Rebecca Vallas, Shawn Fremstad, and Lisa Ekman, “A Fair Shot for Workers with Disabilities” (January 2015), available at <https://www.americanprogress.org/issues/poverty/report/2015/01/28/105520/a-fair-shot-for-workers-with-disabilities/>.

^{lxxxv} Justice in Aging, “Martinez v. Astrue Litigation,” available at <http://justiceinaging.org/our-work/litigation/martinez-v-astrue-litigation/> (last accessed June 2015).