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CONGRESS SHOULD APPROPRIATE PRESIDENT'S REQUEST FOR THE SOCIAL SECURITY ADMINISTRATION'S COSTS IN 2006

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In his fiscal year 2006 budget, President Bush has requested \$9.4 billion for the Social Security Administration's administrative expenses. (Technically, this is known as the Limitation on Administrative Expenses, or LAE.) Funding for SSA's administrative costs is provided each year in the Labor, Health and Human Services, and Education appropriations bill and is considered discretionary spending. The level of funding that the Administration has requested is necessary if SSA is to make critical improvements in program operations, maintain program integrity, and carry out its important role in implementing the new Medicare drug program without sacrificing other responsibilities essential to Social Security and the Supplemental Security Income program.

The scope of SSA's work and the number of Americans whose lives SSA touches annually are reflected in the Commissioner's summary of SSA's upcoming fiscal year 2006 workload:

"[In FY 2006,] [w]e will process over 8 million claims for benefits; issue 17 million new and replacement Social Security cards after obtaining and evaluating evidence of identity; process 264 million earnings items for workers' earnings records; handle approximately 58 million transactions through SSA's 800-number; issue 140 million Social Security Statements which provide individuals with a personal record of earnings on which they have paid Social Security taxes and estimates of future Social Security benefits; adjudicate appeals of Agency decisions; process millions of actions to keep beneficiary and recipient records current and accurate; and conduct continuing disability reviews (CDR) and non-disability redeterminations to avoid improper payments to Social Security and SSI beneficiaries if factors affecting their eligibility or monthly benefit amount have changed."¹

¹ *Statement of Jo Anne B. Barnhart, Commissioner, Social Security*, Hearing before the Subcommittee on Labor, Health and Human Services, and Education, and Related Agencies, U.S. House of Representatives, February 16, 2005, at page 1, available on the web at: <http://appropriations.house.gov/files/JoAnnBarnharttestimony.pdf>. Hereinafter referred to as "Commissioner Barnhart's FY 2006 Testimony."

This analysis examines: a change in the funding source for SSA's work in helping to administer the new Medicare drug benefit, which is the reason for a significant portion of the requested increase in the SSA appropriation; a provision of the new budget resolution that should facilitate an increase in funding that SSA needs to conduct more disability reviews; and an example of important work in the Social Security and SSI disability programs that SSA may not be able to conduct adequately if its funding level is reduced significantly below the President's request.

Funding for SSA's Activities Related to the Medicare Drug Program

The \$9.4 billion that the President seeks for the Social Security Administration's expenses in 2006 is \$670.5 million higher than the amount appropriated for fiscal year 2005. However, only a portion of this increase — approximately \$350.5 million — is a request for additional funds for ongoing SSA activities. The other \$320 million represents the President's funding request for SSA's costs related to its new responsibilities under the new Medicare drug program.²

With passage of the Medicare Modernization Act in 2003 and the creation of the Medicare Part D prescription drug benefit program, SSA is taking on a substantial new workload. Commissioner Barnhart has explained: "SSA will identify low-income beneficiaries who might be eligible for drug benefit subsidies, make low-income subsidy determinations, withhold premiums appropriate to beneficiaries' selected plans, and calculate Part B premiums for high-income beneficiaries."³ The new prescription drug benefit takes effect in January 2006.

Work related to the drug benefit is now underway at SSA. For example, between late May and mid-August 2005, SSA is mailing subsidy applications to close to 19 million Medicare beneficiaries who are potentially eligible for a low-income subsidy. SSA will begin making eligibility determinations for the low-income subsidy in July 2005.

Recognizing the new responsibilities being taken on by SSA, Congress included in the Medicare legislation enacted in 2003 some \$500 million for SSA's initial implementation work related to the new program. These funds were provided for fiscal years 2004 and 2005 and did not go through the appropriations process.⁴ SSA used \$54 million of these funds in fiscal year 2004 and expects to use the remaining \$446 million in fiscal year 2005.⁵

The 2003 legislation contemplated that, effective for years *after* fiscal year 2005, SSA would seek the funds needed to continue its work on the Medicare drug benefit through the normal appropriations process.⁶ As a result, the funds that SSA seeks for fiscal year 2006 to

² "Medicare Prescription Drug, Improvement, and Modernization Act of 2003," Public Law 108-173.

³ *Commissioner Barnhart's FY 2006 Testimony*, page 6.

⁴ See Section 1015 of Pub. L. 108-173.

⁵ *Commissioner Barnhart's FY 2006 Testimony*, page 2.

⁶ See Section 201 of Pub.L. 108-173. Section 1860D-16(a) provides for payment of administrative expenses, including those resulting "in accordance with section 201(g) [42 U.S.C. §401(g)]." Section 201(g) of the Social Security Act

continue its work on the drug program — \$320 million — are incorporated into SSA's basic LAE request. These funds replace funds that SSA received for this purpose from sources other than the regular appropriation in fiscal years 2004 and 2005. Without these funds, SSA's LAE request for fiscal year 2006 represents a four percent increase.

Given the high priority being placed on implementation of the Medicare drug benefit, it is likely that if Congress does not provide the FY 2006 funding for SSA that the President's budget seeks, SSA will have to cut back on other parts of its work. This could have adverse consequences for other SSA priorities and functions that already need more attention or resources than they receive. This is discussed further in the last section of this analysis.

Budget Resolution Provides Opportunity to Provide Funds for Disability Reviews Without Affecting The Senate Appropriations Committee's Allocation

SSA is requesting \$601 million to be used for continuing disability reviews (CDRs) in fiscal year 2006. These are reviews conducted by SSA and its state disability determination services to determine whether current Social Security and SSI disability beneficiaries continue to be disabled.⁷ These reviews are important for program integrity. SSA has reported that each \$1 spent on CDRs returns \$10 in benefit savings to the programs.⁸

The budget resolution conference agreement includes a special rule that, in the Senate, if the base amount of \$412 million for CDRs is provided through the appropriations process, appropriators can add an additional \$189 million for CDRs and the additional amount will not be counted against the Subcommittee's allocation. (Technically, the Subcommittee's allocation will be increased by \$189 million. The House budget instructions do not include the same provision; instead, the discretionary spending limit is set higher in the House than in the Senate. The additional dollar amount in the House equals the funds set aside in the Senate for a series of "adjustments" that can be made outside of the Senate's normal appropriations limit, including the CDR adjustment described here.)

Failure to provide SSA with adequate funds to conduct large numbers of continuing disability reviews would, over time, diminish the integrity and accuracy of the disability programs. To protect program integrity and avert improper payments, it is essential that SSA conduct

authorizes funding for the administrative expenses related to Social Security, SSI, and Medicare. See also, *Social Security Administration: Fiscal Year 2006: Justification of Estimates for Appropriations Committees*, SSA Pub. No. 22-017, February 2005, page 60, footnote 4.

⁷ The statute provides that SSA must re-evaluate a person's disability periodically. Section 221(i)(1) of the Social Security Act, 42 U.S.C. §421(i)(1)[Social Security disability]; Section 1614(a)(4) of the Social Security Act, 42 U.S.C. §1382c(a)(4)[SSI disability]. Generally, reviews are to occur once every three years except when SSA has determined that a person's disability either is permanent or is likely to improve. In cases in which SSA determines the person's disability is permanent, reviews are done once every five to seven years. If SSA determines that a person's condition is expected to improve, SSA will review the case after six to 18 months. 20 C.F.R. §404.1591(d) (Social Security); §416.990(d) (SSI).

⁸ See *Commissioner Barnhart's FY 2006 Testimony*, pages 5, 16. SSA is conducting 1.4 million CDRs in fiscal year 2005 and plans to conduct 1.6 million CDRs in fiscal year 2006. *Id.*, page 5.

ongoing, regular reviews (CDRs) to determine whether recipients with disabilities continue to be eligible.

Failure to conduct the full complement of CDRs also would have adverse consequences for the federal budget and the deficit. As noted, SSA has determined that the CDRs result in \$10 in program savings for each \$1 spent in administrative costs in conducting these reviews.⁹ SSA estimates that the CDRs it conducted in 2002 “are expected to yield \$6 billion in lifetime program savings.”¹⁰ (To put this figure in context, of the one million Social Security continuing disability reviews that SSA conducted in fiscal year 2001, SSA continued benefits in 96 percent of the cases reviewed and terminated benefits in four percent of the cases.¹¹ Even though the vast majority of CDRs result in continuation of benefits, the savings from those CDRs that result in terminations are substantial because of the size of the program and the value of the benefits provided.)

What Is At Stake If SSA Does Not Receive Its Full LAE?

Undercutting SSA’s ability to maximize its potential as an independent agency

SSA became an independent agency in the mid-1990s. In its report accompanying the 1994 legislation making SSA an independent agency, the House Ways and Means Committee stated:

“Support for making SSA an independent agency is rooted in a marked decline in the agency’s performance over the past 15 years. Several factors have contributed to this decline, including frequent turnover in agency personnel, multiple internal reorganizations, and increasing political intervention in the administration of the program.

“With respect to personnel, SSA has had 10 commissioners in the past 15 years, 4 of whom served only as acting commissioners and 6 of whom served less than 18 months. During this same period, the agency has undergone a series of reorganizations which have displaced personnel at all levels, creating repeated changes in responsibilities for program administration and policy development.”¹²

Congress hoped that making SSA an independent agency would provide SSA with administrative stability and the ability to better anticipate and address current and future systems needs. The current SSA Commissioner, Jo Anne B. Barnhart, began her term in November 2001 and is making significant progress in such areas as instituting technological improvements and changes in systems design to provide higher quality decisions earlier in the disability decision

⁹ See footnote 8.

¹⁰ *Social Security Administration: Fiscal Year 2005: Justification of Estimates for Appropriations Committees*, SSA Pub. No. 22-017, February 2004, page 74.

¹¹ *2004 Green Book*, Committee on Ways and Means, U. S. House of Representatives, Table I-44, page I-70.

¹² House Report No. 103-506, Ways and Means Committee, May 12, 1994, pages 44-45.

process. An inadequate funding level would undercut these efforts to strengthen SSA systems, improve Social Security and SSI benefit accuracy, and improve SSA's ability to respond effectively to the growing numbers of claimants it is serving.

Making it harder for SSA to address issues raised by current beneficiaries

Not surprisingly, with millions of new applications each year, SSA emphasizes the importance of processing applications, determining eligibility, and providing benefits. Once a person begins to receive monthly benefits, there are many reasons why SSA may need to respond to contacts from the person or to initiate a contact. This is known as "post-entitlement work" and generally does not receive the priority it should. All too often, when SSA is short on staff and staff in local offices are overwhelmed by incoming applications and inquiries, they are less attentive to these post-entitlement issues. As explained below, for people with disabilities, this can discourage efforts to return to work, undermining an important national goal of assisting people with disabilities to secure and maintain employment.

Even with the full LAE that the President is seeking for fiscal year 2006, it is doubtful that SSA will be able to place sufficient priority on this work. However, there are important efforts underway at SSA to address these issues more adequately, and it would be unfortunate to frustrate these efforts by failing to provide the full LAE. One example of this problem is set forth below.

For many years, a problem for people with disabilities who receive Social Security or SSI benefits and wish to try to go back to work is that they often end up owing SSA substantial sums as a result of overpayments. Typically, this happens when the individual calls SSA and reports work and earnings or brings the information into an SSA field office, but SSA fails to input the information into its computer system and does not make the needed adjustments in the person's benefits. Then months or years later, after a computer match with earnings records, SSA determines that the person has been overpaid and sends a notice to this effect. Typically, after receiving the overpayment notice, the beneficiary will tell SSA that he or she reported the income as required and SSA will reply that it has no record of the reports.

Depending on which program the person is participating in — Social Security or SSI — discovery that the person is working may result in complete loss of cash benefits (Social Security) or a reduction in cash assistance (SSI). It also can affect the person's health care coverage. To collect the overpayment, SSA may decide to withhold all or a portion of any current benefits owed, or SSA may demand repayment from the beneficiary if the person is not currently eligible for benefits.

The result of this process is that some individuals with disabilities are wary of returning to work, out of fear that this may give rise to the overpayment scenario and eventually result in a loss of economic stability and potentially of health care coverage upon which they rely. As a result of this long-term administrative problem, anecdotal evidence indicates there is a widespread belief among people with disabilities that it is too risky to attempt to return to work, because the beneficiary may end up in a frightening bureaucratic morass of overpayment notices, demands for repayment, and benefit termination.

This earnings reporting and recording problem appears to be a significant barrier that discourages many SSI recipients from attempting to return to work. It also appears to be one of the most significant such barriers to work among Social Security disability beneficiaries. At a 2003 hearing of the Social Security Subcommittee of the House Ways and Means Committee, Rep. J.D. Hayworth (R-AZ) pointed this out and Commissioner Barnhart acknowledged it to be a significant problem and said SSA's ability to remedy it is hindered by lack of adequate resources:

Mr. Hayworth: ...One concern of many beneficiaries about returning to work is that if they report their earnings to SSA, the agency may not accurately keep track of them, thus leading to overpayments. This fear of having to repay potentially hundreds or thousands of dollars in overpayments is a real concern that prevents many individuals with disabilities from taking that step to return to work. Again, I would be interested, Commissioner — what steps is the agency taking to improve how it tracks earning reports and to reduce incidents of overpayments?

[Commissioner] Barnhart: That has been a huge issue in the agency. Quite frankly, the lag time between individuals willingly reporting income that they are earning and it getting posted into their accounts so we know we need to make adjustments in benefits — and it does result in these erroneous overpayments, sometimes after a year or 2, and the individual is required to pay that back through overpayment collection efforts unless we grant a waiver. I would say that the major factor contributing to that delay has been a need for additional resources, because that workload that you have just described is on that list. This is one of those 282 items that is competing with 281 other things to get done...I think it has been a workload issue for the agency. We are making it a priority. We are starting to make strides in that area. I have to tell you, if we do not get the President's budget request [for fiscal year 2004] and we are not able to hire 1,300 more people and have 1,000 more hours in overtime beyond that, it is going to be difficult to get current...¹³

SSA's ability to respond to work reports submitted by Social Security and SSI disability beneficiaries in a timely manner is essential if progress is to be made to realize Congress' goal of reducing work disincentives in the Social Security and SSI disability programs and encouraging more recipients to attempt to return to work. As reflected in the colloquy above, SSA acknowledges the problem. Without additional resources, however, SSA will not be able to resolve the problem effectively. The encouraging steps now underway at SSA to address this issue, which involve upgrading the technology for inputting reports of earnings and being better able to track this workload, are less likely to be implemented effectively and systemically if SSA's LAE is less than the amount the President's budget requests.

¹³ Colloquy between Representative J.D. Hayworth and Commissioner Jo Anne Barnhart, *Social Security Administration Service Delivery Budget Plan*, Hearing before the Social Security Subcommittee of the Committee on Ways and Means, Serial 108-37, July 24, 2003, pages 24-25 on internet, <http://waysandmeans.house.gov/hearings.asp?formmode=printfriendly&id=1606>.

Conclusion

It is important that the Social Security Administration receive the full amount of LAE funding the President has requested for fiscal year 2006. SSA is making significant administrative and technological improvements, but it faces a significant increase in workload as a result of the new Medicare drug benefit and the related low-income subsidies.

Implementing such improvements will better enable SSA to address significant backlogs in its workloads and put it on a firmer footing to address the large increases in workloads anticipated in the years ahead. Such improvements should result in the more expeditious termination of payments to people who no longer have disabilities sufficiently severe to qualify for benefits and also could result in the reduction of a significant disincentive for people with disabilities to try to return to work. Failure to fully fund the LAE request likely would mean that the priority the Administration and Congress are placing on implementing the Medicare drug benefit will crowd out other important SSA priorities.