



## **SSDI: Time for reform**

By Jagadeesh Gokhale  
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The just-released Social Security Trustees' annual report projects that Social Security's Disability Insurance (SSDI) component will become insolvent sometime during 2016 – leaving not much time for reform deliberations. Recent instances of SSDI fraud have concentrated the minds of lawmakers in Congress. Beyond combating SSDI fraud, however, Congress can use this opportunity to adopt sensible SSDI reforms to improve the lives of individuals with disabilities.

Evidence of behind-the-scene activity on Capitol Hill on SSDI reforms is beginning to emerge. Based on recent Congressional hearings, lawmakers appear highly dissatisfied with how the SSDI program is working. Many are focused on combating SSDI fraud but appear reluctant to adopt more comprehensive reforms.

A few facts on SSDI:

Beneficiaries currently number 11 million and the system admits about 1 million new beneficiaries into the program each year. Current annual SSDI expenditures run at \$140 billion. Most significantly, enrollments have consistently exceeded the agency's projections during the last several years, suggesting strong incentives among those with medical impairments to quit work and apply for SSDI benefits.

SSDI applicants must provide evidence of a medical impairment that prevents work above the Substantial Gainful Activity (SGA) level of earnings – currently \$1,070 per month – one that is expected to last for at least 12 months or result in death. This condition means a decision to apply for SSDI compels exit from the work-force.

The existence of a qualifying medical impairment is judged according to “medical listings” – severity of medical conditions that applicants must “meet or equal.” Failing that, applicants may still be admitted to the program for demographic and vocational reasons such as age, education, job skills, job availability in the applicant's occupation or other occupations, and so on. These criteria induce SSDI applications and allowances to accelerate during recessions.

Evidence from the last several recession episodes shows that such enrollment surges were not reversed during the last three recessions once the economy recovered and unemployment abated. This despite no increase in the population's share of those with

medical impairments, improved technology in assistive devices, and an improved legal environment for accommodating those with medical impairments in the workplace.

Once allowed onto the program, many beneficiaries are reluctant to return to work for fear of losing SSDI's cash benefits and eligibility to low-cost Medicare coverage – trapping those with residual work capacities and those who could adapt to their impairments and resume work into a state of government dependency.

The majority of applications are professionally represented and representatives appear to be increasingly adept at exploiting SSDI's procedural nuances to increase allowance success rates. State and local governments have also increased efforts to enroll into SSDI those dependent on state welfare programs to reduce or offset state budget expenditures.

Many observers claim that Social Security agency officials – case examiners, administrative law judges (ALJ), legal assistants, decision writers, appellate personnel, and others are highly diligent at performing their jobs. Nevertheless, statistical analysis of decision patterns suggests a systematic bias toward allowing undeserving applicants onto the program.

Moreover, recent widely reported incidents of fraud by applicant representatives, ALJs, and medical practitioners have heightened suspicions that those were not isolated incidents. Fraud in combination with shortcomings in SSDI's disability determination procedures may explain a large portion of the secular surge in SSDI enrollments. According to Sen. Tom Coburn's (R-Okla.) investigations into SSDI allowance patterns: “What we found is 25% of the cases should never have been approved for benefits based on Social Security's own rules and procedures. So, we had 25% where their own administering law agents didn't follow their own rules.”

Congress seems unlikely to repair SSDI's financial shortfall by adopting politically unpopular measures: Benefit cuts and payroll tax increases. But strengthening measures to combat SSDI fraud may receive bipartisan support. For example, the House Ways and Means Subcommittee on Social Security Chairman Sam Johnson (R-Texas), recently introduced H.R. 5260, the *Stop Disability Fraud Act of 2014*. This bill would expand SSDI anti-fraud investigation units, increase penalties for committing SSDI fraud, strengthen licensing requirements for medical practitioners and applicant representatives, and require expanded and more frequent information collection and reporting by the Social Security Administration to facilitate closer oversight by lawmakers.

As positive as these steps are, Congress needs to go further. Evidence accumulated since the early 1980s indicates increasing uncertainty and difficulty in making disability determinations – because of improving population health, better technology, greater legal recourse when competing for jobs, better access to public amenities, and improved social attitudes favoring independence, self-determination, and community participation by individuals with disabilities.

Failure by Congress to adopt workable programmatic reforms to SSDI to more strongly encourage return to work by beneficiaries and to assist workers to remain employed despite health obstacles would be a tragic missed opportunity.

*Gokhale is a senior fellow at the Cato Institute and author of Social Security: A Fresh Look at Policy Alternatives.*