



CRS Issue Statement on Disability Benefits

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Federal disability benefit programs are primarily intended to provide a measure of income security to persons with disabilities by replacing some of the income lost due to their inability to work or due to the increased medical, housing, transportation, and other costs often associated with disability. The modern federal commitment to provide such benefits to persons with disabilities has its beginnings in the 20th century. At the beginning of the century, during the nation's industrial revolution, the federal government began one of the first workers' compensation programs for railroad workers, who, because of the interstate nature of their work, could not be served by any one state program, and later extended coverage to federal employees and interstate longshore and harbor workers. With the passage of the Social Security Act in 1935, the federal government committed to provide income replacement to persons who stopped working because of their age and 20 years later extended this commitment to persons unable to work because of disability. The first benefits for disabled veterans were paid before the United States was a nation, and this commitment was formalized into a unified federal veterans benefit system in 1930. In addition to these precedents, modern disability programs also find their homes in the federal government because of our nation's constitutional obligation to provide for the "general welfare" and civil rights of all Americans.

Returning persons with disabilities to full employment is a secondary concern of federal disability programs and these programs have had a historically low rate of success in returning disability beneficiaries to the workforce. Crafting a return to work strategy for persons with severe disabilities that had prevented them from holding any full-time job is not easy, as evidenced by the low rate of success of both the old approaches (traditional vocational rehabilitation) and the new approaches (privatization such as the Ticket to Work program). However, given the rising costs of disability benefits, and the strain these programs are placing on general revenue and various federal trust funds, finding some way to reduce benefit rolls by returning beneficiaries to work will likely need to be considered by Congress.

Central to any policy discussion on disability is the definition of disability itself. Given that academics, researchers and advocates cannot agree on a single definition of disability, it should come as no surprise that many public programs for persons with disabilities use different definitions of disability, with some basing the definition of disability on an inability to work, and others focus on functional limitations or medical diagnoses. Making matter even more complicated is the greater awareness being placed on psychological and mental conditions which make up a significant portion of new disability benefit claims and which have been a major focus of the veterans programs. In addition, the definition of disability in the Americans with Disabilities Act (ADA), was amended by the ADA Amendments Act to expand the definition of disability, and this new definition has not yet been interpreted by the courts or by final regulations.

Just as important as the definition of disability, are the goals of each of the disability benefit programs. In many cases, these program goals drive the definition of disability used by the program. For example, the Social Security disability programs are designed to replace lost wages, and thus these programs define disability based on an inability to work.

The largest public programs for persons with disabilities are the means-tested Supplemental Security Income (SSI) and insurance-based Social Security Disability Insurance (SSDI) programs, which provide cash benefits and medical coverage to over 12 million persons unable to work because of their disabilities. The SSI and SSDI programs continue to face long processing times for initial application decisions and appeals hearings with applicants waiting, on average, over 100 days for a decision on their claims and appellants waiting nearly 500 additional days

before getting a decision from an Administrative Law Judge. The Social Security Administration (SSA) has taken administrative steps to address the lengthy application and appeals processes for these programs and the large backlog of applicants waiting for benefits decisions and now projects that processing times and backlogs will be reduced to acceptable levels by 2013. However, the increase in program applications due to the economic downturn may strain the agency's ability to process applications and appeals and meet this goal.

The current economic downturn has been accompanied by increased participation in the SSI and SSDI programs. Given that the administrative resources of these programs were already strained, it is likely that Congress may need to address the impact of additional applicants on the SSA's ability to serve the public and its beneficiaries. Increased participation in the SSDI program will also affect the Medicare program and the DI trust fund as SSDI beneficiaries are entitled to Medicare after a two-year waiting period. Increased SSI applications and enrollment will affect general revenue used to pay SSI benefits and administrative costs as well as costs for the Medicaid program that serves nearly all SSI recipients. States with their own budget shortfalls have also experienced increased difficulties in providing state supplements to SSI recipients. Last year in California, for example, changes to the state supplement led to a decrease in monthly benefits for many in the SSI program. State furloughs of disability determination services employees have slowed the processing of new program applications and continuing disability reviews and Congress, the SSA, and the White House have expressed concern over state actions in this area.

The economic downturn has caused the Consumer Price Index to drop resulting in no cost of living adjustment (COLA) to SSDI, SSI, or veterans benefits. The White House and the SSA have called on Congress to create a special one-time economic recovery payment, modeled on the economic recovery payment provided under the American Recovery and Reinvestment Act, for all Social Security and SSI beneficiaries as well as veterans disability beneficiaries. Congress will have to decide the amount of any such payment, how it will be administered, and what specific beneficiary groups, such as children and beneficiaries in the U.S. territories, will be eligible for these payments.

Benefits for military service members and veterans with disabilities comprise another major part of federal disability policy. Current military operations have brought increased scrutiny on the treatment of disability by the Department of Defense (DOD) and the Department of Veterans Affairs (VA). In part because they require two separate physical evaluations, the existing disability evaluation processes administered by the DOD and the VA for separating disabled military service members have been characterized as wasteful, time-consuming and confusing. Some have also argued that the definitions and determinations of disability used by the Social Security and veterans disability programs should be more closely aligned so that persons eligible for one program are more likely to be eligible for another, despite the fact that these two sets of programs have different goals.

While American military forces are transitioning out of Iraq, civilian federal employees and contractors are likely to remain for some time and there will be a "civilian surge" as part of President Obama's new Afghanistan strategy. This continued use of civilian federal employees and contractors in support of military and other operations abroad had raised concerns over the adequacy of the federal workers' compensation programs that provide disability benefits to civilian government employees and contractors working with the military. The Federal Employee Compensation Act (FECA) program was designed to provide traditional workers' compensation benefits to federal employees working in traditional settings in the United States, but now is being

called upon to provide these benefits to civilian employees working alongside military troops in a war zones and facing conditions such as traumatic brain injury and post-traumatic stress disorder that are not commonly seen by the civilian doctors who treat these employees.

Members of Congress have expressed concern that federal employees being deployed overseas may not be getting complete information on their options if injured and may not be able to access specialized medical care from the military upon their return to the United States. The DOD has expanded access to its healthcare system for federal employees (but not contractors) injured abroad, but it remains to be seen how this policy will be implemented and how it will coordinate with the FECA program.

The Defense Base Act (DBA) requires that government contractors working outside of the United States provide approved private workers compensation coverage for their employees. The DBA has become a major cost component of many military contracts in Iraq and Afghanistan. In addition, Members of Congress have expressed concern that this privatized insurance system may not be able to properly provide benefits for contractors injured in war zones or other hostile areas. Questions have been raised about the efficiency and effectiveness of using multiple private insurance carriers to provide workers' compensation coverage to contractors working in hostile areas and a recent report by the DOD, required by Congress, has led to calls for the replacement of the DBA program with one in which benefits for injured contractors are paid by the federal government rather than private insurers.

Participants in the SSI and SSDI programs, as well as other persons with disabilities, are entitled to utilize Vocational Rehabilitation (VR) services funded by the Department of Education under the provisions of Title I of the Rehabilitation Act. However, authorization for the VR program expired at the end of FY2003 and the program has been operating under a limited extension provision that caps appropriations to the states. Increased unemployment among persons with disabilities may result in greater demand for VR services, which will strain state VR agency budgets since their funding is subject to this cap on appropriations and must be partially matched with state funding.

The ability of persons with disabilities to live independently in affordable, accessible housing became a prominent issue starting in 1999 as the result of a Supreme Court decision, *Olmstead v. L.C.* The court held that institutionalization of persons with mental disabilities in lieu of community-based care may constitute discrimination. However, for many states and communities, it may be difficult to achieve the goal of treatment in a community environment without the availability of accessible and affordable housing. Federal funds for subsidized housing, together with supportive services, may make independent living possible for at least some individuals with disabilities.

The Individuals with Disabilities Education Act (IDEA) provides funds to states and mandates that children with disabilities receive a free appropriate public education. The IDEA is one of the largest programs administered by the Department of Education. The IDEA has improved opportunities for children with disabilities. However, the program and the concept of a what is an appropriate education for a child with disabilities and how this education should be financed and provided continues to present challenges to policymakers. There continues to be discussion about the federal share of funding for programs that serve students with disabilities. There also continues to be debate over how to ensure that the parents of children with disabilities maintain their due process rights when they object to the education their children are receiving under the IDEA, as well as how to properly discipline children with disabilities in the school setting. The

No Child Left Behind Act has also raised questions on how to best monitor the academic progress of children with disabilities and how to ensure that special education teachers are properly qualified under the act.

The transition of children with disabilities into adulthood is a concern across programs. Too often, transition-aged persons with disabilities fall between the cracks of children and adult programs and may not receive necessary benefits or services during this period. There is a concern that a lack of benefits and services during the initial years of adulthood can have long-term negative consequences for a persons with disabilities and make it more difficult for them to achieve employment and independence in later years. There has been much discussion of increasing the focus on these transition-aged persons with disabilities. However, the stovepiped nature of America's disability programs, and the fact that such programs cross several Congressional committees, has made turning this focus into policy difficult.

It is likely that any major changes to the nation's healthcare system will affect persons with disabilities. The Community Living Assistance Services and Support (CLASS) Act, included in both the House and Senate-passed legislation, would create voluntary long-term care insurance program which would provide benefits to persons with disabilities. However, because of the proposed implementation date of 2014 and the proposed five-year vesting period, the CLASS Act is unlikely to help the current population of persons with disabilities with their long-term care needs. Proposals to prohibit private medical insurance plans from excluding pre-existing conditions from coverage would benefit persons with disabilities who are often unable to purchase insurance or must pay higher than normal premiums. Greater access to private health insurance may remove a major barrier to returning to work and leaving the public disability rolls as persons with disabilities will not have to go without medical coverage if they lose the Medicare that comes with SSDI or the Medicaid that comes with SSI.

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