

Senate Special Committee on Aging Hearing
Securing Social Security: Accessing Payments and Preserving the Program for Future
Generations

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Good morning, Chairman Casey. Thank you for this opportunity to testify before the Senate Special Committee on Aging. This is a critical topic and I appreciate you drawing attention to it. My name is Jennifer Burdick and I am the Divisional Supervising Attorney for the SSI Unit at Community Legal Services of Philadelphia, a non-profit that provides free civil legal services to low-income Philadelphians. For nearly sixty years, CLS has assisted clients at every stage of the Social Security disability application process, from initial applications, reconsideration appeals before Pennsylvania's Disability Determination Service (DDS), appeals at the Social Security Office of hearing operations and federal court. Additionally, I advocate for improvements to national systemic issues facing the Social Security system.

Today I am going to talk about a lot of reasons why it is hard for people to access SSA and include some thoughts on ways to address those issues through policy tweaks and streamlining. But, I want to be clear that SSA will not be able to adequately address these customer service issues until the agency is fully funded. Since 2010, SSA's operating budget has fallen 17 percent, with an associated drop in staffing of 16 percent.¹ During the same time, SSA's workloads have expanded dramatically. The number of Social Security beneficiaries has grown by 11 million or 22 percent since 2010 as the Baby Boomer generation has aged. SSA staffing numbers are at a 25-year low.² Now, with SSA employees facing unprecedented workloads, it is unsurprising that SSA has fallen into last place in the annual survey of best places to work in the federal government.¹¹ It is a credit to the employees of SSA that millions of people who turn to SSA in their time of need are served well, although frustrating that the historic and long-term disinvestment has made service inadequate for millions more. Congress must act now to address this long-term funding problem.

I. Social Security Disability Programs Are Vital Safety Net Programs.

For millions of people with disabilities, Social Security disability programs provide critical income support in times of need. Workers contribute to the Social Security trust fund and then qualify for SSDI if they can no longer support themselves through work due to long-term

¹ Kathleen Romig, *Long Overdue Boost to SSA Funding Would Begin to Improve Service*, Center on Budget and Policy Priorities (March 30, 2023), <https://www.cbpp.org/blog/long-overdue-boost-to-ssa-funding-would-begin-to-improve-service>.

² Jeff Stein, Lisa Rein, and Eric Cox, *Biden Picks Martin O'Malley to Lead Social Security Administration*, Wash. Post, July 26, 2023, <https://www.washingtonpost.com/business/2023/07/26/biden-picks-martin-omalley-lead-social-security-administration/>.

disabilities. Similarly, the SSI program ensures that people with lifelong disabilities that keep them from working are able to receive a small but lifesaving income benefit that helps them to stay housed. Social Security lifts more people above the poverty line than any other single safety net program.³

For example, my client, L. R., was in her mid-thirties, working full-time as a housekeeper at a hotel to support her family, when she began having frequent, unpredictable fainting spells. At one point, she fell down a concrete flight of stairs at work, sustaining serious injuries. After some investigation, her doctors diagnosed her with an atypical type of Postural Tachycardia Syndrome (POTS), a disorder of the autonomic nervous system. Because she was at risk of further injury due to her unpredictable fainting, her doctors recommended that she stop working. Her employer agreed: they felt that her fainting presented a safety issue at work. Ms. R. went from working full time to fearing that she couldn't pay her rent or put food on the table for her children.

Fortunately, Ms. R. learned about and applied for Supplemental Security Income benefits. The road to qualifying for SSI benefits was long. Like two-thirds of disability applicants, Ms. R. was denied when she first applied, and she was also denied at the first-level reconsideration review stage, before an administrative law judge finally found her eligible.

Once she qualified, she began receiving \$700 in monthly benefits based on her earnings and approximately \$7,000 in retroactive benefits. While her disability benefits were modest, that modest income allowed Ms. R. and her children to remain together in their home.

Stories like Ms. R.'s highlight how important Social Security benefits are for disabled workers. Unfortunately, her story also shows that benefits can be hard to access, even for people who unquestionably qualify. Chronic disinvestment in SSA's administrative budget has undermined the agency's ability to issue timely disability determinations, and it has degraded customer service at the agency.³

II. How to Access SSA Disability Benefits.

If you or someone you know has a medical condition that is preventing them from working or is a child who has a severe medical condition, they may be eligible for Social Security disability benefits.

If you have a long work history, you can likely apply for disability benefits by completing an online application. You can find that application at ssa.gov/benefits/disability/.

If you do not have a long work history, or are applying for a child, or do not want to complete the form online, it is a bit more complicated. SSA does not yet offer a completely online application for SSI recipients and instead requires you to complete an interview.

³ Kathleen Romig, *Social Security Lifts More People Above the Poverty Line Than Any Other Program*, Ctr. on Budget and Pol'y Priorities (June 2, 2023), <https://www.cbpp.org/research/social-security/social-security-lifts-more-people-above-the-poverty-line-than-any-other>.

There are a few ways to schedule that interview. You can call or go into your local Social Security office and ask to schedule that interview. Please note, if you go into your local office, they probably will not be able to take your application that same day. You may be subject to long delays if you call.

Typically, I recommend people use SSA's protective filing tool to request that interview, available at ssa.gov/ssi/start.html. This is a very brief online form where SSA asks you a few questions, and then will send you a notice with an appointment date for your disability interview. By using this tool, SSA will consider your disability application from the date you used the tool (your protective filing date), which may give you access to more benefits than if you scheduled an interview by calling or going to the office. When completing this form, it is important to provide SSA with a phone number and address you will have for some time.

When SSA reaches out, they will ask a lot of questions about any medical impairments and any treatment. Before then, I recommend you take a few minutes to collect information about any doctors, therapist or other treatment you have received and put it aside for the interview. SSA will also ask some questions about how much income you receive or how many resources you have access to—so it is also helpful for you to also collect that information.

Please note that once the interview is complete, you are not done. SSA will send you a series of forms to complete and return about your work history and daily functioning and may turn down your case if you do not complete them. It's important to return these forms, even if you cannot fill it out completely or need to note that you do not understand the question. It is also important to provide SSA with a mailing address that you check often and you will be able to access for the foreseeable future to ensure you can complete the process. SSA may also ask you to see an SSA doctor, called a Social Security consultative examiner. If you get this request, you should schedule the appointment and make sure you attend.

Many disability applications are denied initially and denied again after the first level appeal (reconsideration), even for people who will ultimately be found eligible for benefits. I recommend claimants consider appealing at least two times, until they get a hearing before an Administrative Law Judge.

If this process sounds long and a bit complicated—it is! You can get representation to help and should consider that if you think completing this process will be challenging on your own.

III. SSA Benefits Are Hard to Access.

Accessing disability benefits is an incredibly complex process, one that often requires professional help from a lawyer or other representative. Many people also rely on the staff at Social Security Field Offices to help them sort out issues and challenges with their benefits. It should not take special assistance or a law degree to navigate the labyrinthine rules of the Social Security disability benefits system, especially since Social Security is designed to help those with disabilities who often, by the very nature of their disabilities, will need assistance with paperwork. But this complexity requires even more high-quality service from SSA, to ensure the agency is always correctly explaining complex rules to both beneficiaries and representatives.

The access issues are broad. Getting disability benefits requires people to fill out multiple long forms, answering detailed issues about their disability and financial issues. Many of these forms are not online. People struggle keeping up with this correspondence: sometimes mail doesn't come timely, or gets lost, and it's too hard or far to drop these forms off at a field office. Other people struggle with comprehending the forms due to cognitive issues or because the forms are only available in English. Although these problems seem minor, they are significant barriers to access for many. Since many people are denied benefits for which they are eligible initially, people face these barriers multiple times as they reapply over and over, resulting in both practical challenges and a profound sense of disillusionment.

Overwhelming, burdensome paperwork is just one access challenge that disabled people face. Other access problems are more complex, but no less significant. As I will discuss more later on, the disability program is riddled with minefields and pitfalls that can trip up the most conscientious people, costing them life-sustaining benefits.

IV. SSA Needs Funding to Revise Outdated and Overly Complicated Rules that Burden Claimants and SSA.

Significant gains could be made to SSA—by reducing the administrative burden on claimants, but also by streamlining workloads — by working to update and revise some of these overly complicated and outdated rules.

I apologize if this gets too technical, but I want to walk through a few circumstances where I think SSA's outdated policies are gumming up the system and placing significant burdens on SSI claimants and staff.

A. SSA Needs Adequate Funding.

SSA will not be able to ensure Americans can adequately access its services unless the agency is fully funded. Since 2010, SSA's operating budget has fallen 17 percent, with an associated drop in staffing of 16 percent.⁴ During the same time, SSA's workloads have expanded dramatically as beneficiaries have grown by 22%, or almost 12 million people.⁵

Being forced to serve millions more people with fewer staff has caused tremendous strain on SSA, and disabled people and older adults are suffering the consequences, which include long wait times for disability appeals, and significant difficulty reaching SSA by mail or telephone. SSA is already taking important steps to ease this burden by streamlining outdated policies and forms, but more needs to be done. It is critical that Congress fully fund SSA to allow it to have the tools to meaningfully address its backlogs.

⁴ Kathleen Romig, *Long Overdue Boost to SSA Funding Would Begin to Improve Service*, Ctr. on Budget and Pol'y Priorities (March 30, 2023), <https://www.cbpp.org/blog/long-overdue-boost-to-ssa-funding-would-begin-to-improve-service>

⁵ Kathleen Romig, *Social Security Needs Additional Funding to Avoid Exacerbating Customer Service Crisis*, <https://www.cbpp.org/blog/long-overdue-boost-to-ssa-funding-would-begin-to-improve-service> (Sept. 22, 2023), <https://www.cbpp.org/blog/social-security-administration-needs-additional-funding-to-avoid-exacerbating-customer-service>.

B. Congress Must Act Now to Raise SSI Asset Limits.

Beyond funding, SSA's crushing administrative rules make it unable to weather persistent understaffing. Updating financial eligibility rules will allow SSA to operate more leanly, focusing on its core services. To wit: one of SSI's most egregiously outdated rules is its antiquated asset limit, which has remained stuck at \$2,000 for individuals and \$3,000 for couples since Congress last adjusted these amounts for inflation in 1984.⁶ This policy prevents people from saving enough to weather common emergencies, like home or car repairs—let alone to provide lasting stability or save for the future.

This policy wreaks havoc on beneficiaries and SSA staff alike. Anyone who has more than \$2,000 in savings (or \$3,000)—including retirement accounts, education savings, or even basic insurance — is not eligible for SSI. This is very complicated for current beneficiaries. SSA has to audit beneficiaries (which is time consuming) to see if they accidentally save too much. If a recipient saves even slightly over the outdated limit, they are suspended and then terminated. Then the beneficiary will rack up thousands of dollars in overpayments, which are hard to repay, and it triggers an overpayment process where claimants are asked to fill out a 10-page plus form and meet with SSA staff.

As the asset limit gets more outdated, and \$2,000 represents less and less money in today's economy, more and more people get caught up in an administrative web of accidentally exceeding the asset limit, getting suspended or terminated, and then going through an overpayment waiver process. This is stressful for consumers and very administratively burdensome for staff.

Public policy should encourage, not penalize, saving for the future, and the importance of emergency savings to protect against financial shocks has been well documented. A large and growing body of work has confirmed that asset limits are counterproductive to economic stability.⁷

Congress should therefore pass the SSI Savings Penalty Elimination Act (S. 2767, H.R. 5408), a common sense reform supported by Senator Casey along with representatives from both legislative chambers and both parties.⁸ This bill would update SSI asset limits for the first time in 40 years, to \$10,000 for an individual and \$20,000 for a couple.

This legislation would support Social Security beneficiaries by allowing them to build modest savings to address common emergencies. And it would serve SSA's interests by streamlining

⁶ Kathleen Romig & Arloc Sherman, *The Case for Updating the SSI Asset Limit*, Ctr. on Budget and Pol'y Priorities (Sept. 20, 2023) (<https://www.cbpp.org/research/social-security/the-case-for-updating-ssi-asset-limits> (Figure 1)).

⁷ JP Morgan Chase Policy Center, *Enhancing Economic Opportunity and Mobility for People with Disabilities Through Asset and Income Limit Reforms*, <https://www.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/documents/policy-center-asset-limit-issue-brief-ada.pdf>.

⁸ Kathleen Romig, *Policymakers Should Raise SSI's Harsh Savings Limits*, Ctr. on Budget and Pol'y Priorities (Sept. 12, 2023), <https://www.cbpp.org/blog/policymakers-should-raise-ssis-harsh-savings-limits>.

when SSA needs to police assets, eliminating the need for SSA staff to monitor small financial transfers and initiate complicated overpayment proceedings.

C. SSA Should Take Steps to Increase Uptake of ABLE Accounts.

The leading cause of overpayments in SSI is exceeding the program’s resource limits (\$2,000 for an individual and \$3,000 for a married couple). Many overpayments due to resources are completely preventable.

About 44% of SSI beneficiaries (over three million people) qualify for ABLE accounts—created by the ABLE Act of 2014, championed by Senator Casey. These accounts allow Social Security disability recipients to save up to 50 times more savings —up to \$100,000—which do not count toward SSI’s resource limits. These funds can be used for a broad range of qualified disability expenses.

Currently, these accounts are only available to individuals who can establish their disability started before the age of 26. But, thanks to the ABLE Age Adjustment Act passed last year, also championed by Senator Casey, beginning in January 2026 eligibility for these will expand to individuals whose disability onset before the age of 46, making the majority of SSI recipients eligible.⁹

The challenge is that ABLE accounts are massively underutilized. Few beneficiaries are aware of the accounts, and even fewer have opened them. To date, only about 137,000 ABLE accounts have been set up, accounting for less than one percent of SSI beneficiaries currently eligible.¹⁰ SSA does not take any steps to inform beneficiaries about ABLE accounts. My office frequently advises claimants about ABLE accounts, but I remain surprised at just how often clients tell me they have never heard of these accounts.

The fix is simple: SSA should provide beneficiaries with plain language information about ABLE accounts, with a clear explanation of how shifting savings and retroactive payments to such an account would allow them to hold much more than \$2,000 and stay in compliance with SSI rules, thus avoiding overpayments, suspension, and termination. The notification should explain how to set up an account, and that account could be used for qualifying disability expenses including housing, transportation, health, and basic living expenses. Getting more people to use ABLE accounts is a win-win: it allows claimants to save more money to address common emergencies, and it will reduce the administrative burden on the agency to process minor overpayments.

D. Congress Must Act to Pass the SWIFT Act.

⁹ Ann Carrns, “Savings Accounts for Disabled People Are Opened to More of Them,” *New York Times*, Jan. 2023, <https://www.nytimes.com/2023/01/20/your-money/able-disability-savings-accounts.html>.

¹⁰ Warren et al, *The Financial Health of People with Disabilities*, Financial Health Network at 40 (Aug. 2023), https://finhealthnetwork.org/wp-content/uploads/2023/08/The-Financial-Health-of-People-With-Disabilities_Key-Obstacles-and-Opportunities-2023.pdf

Another unfair SSA financial eligibility policy that hinders widow(er)s should also be addressed without delay. Under current law, widow(er)s who develop a disability after their spouse dies are not allowed to claim survivors benefits until they reach age 50, and the value of these benefits is severely reduced if they claim the benefit before reaching full retirement age. More than one-third of widow(er)s also have their benefits limited by an arcane provision known as the widow(er)s limit, which permanently reduces widow(er)s' survivor benefits if their deceased spouse claimed their benefits before reaching full retirement age.

Congress can and should address this problem by passing the SWIFT Act, introduced by Senator Casey on September 7, 2023. The bill would increase Social Security benefits by more than one million people. First, it would allow widow(er)s and surviving divorced spouses with disabilities to receive 100% of the survivor benefit they are entitled to it, regardless of their age. Second, it would give widow(er)s and surviving divorced spouses the ability to increase the value of their survivor benefits beyond the current, arbitrary caps. Third, it would enable widow(er)s and surviving divorced spouses caring for children to receive child-in-care benefits until their children are 18 or 19 if the children are still in school. Fourth, it would require the federal government to proactively provide information to widow(er)s and surviving divorced spouses about the benefits for which they are eligible.

E. Legislative and Administrative Reforms are Long Overdue for the Overly Restrictive “Dedicated Account” Policy that Punishes Families with Disabled Children.

When a child is approved for disability benefits, almost all children must set up “dedicated accounts” to access the past-due payments they are owed for the time they spent waiting for SSA to approve their claim. Dedicated accounts are subject to overly complex, outdated, and paternalistic rules that make them hard to access. These rules are so hard to follow that many of my clients' parents are unable to use the money. The rules are also extremely difficult for SSA to administer. Recently, the Office of Inspector General found that these rules are so complex, SSA did not timely or accurately pay families waiting for these benefits in 82 out of 100 sampled cases.¹¹

This policy is challenging first because SSA requires parents to set up a special bank account to receive these past due funds, which can be a challenge for the unbanked.¹² Additionally, Social Security policy says that this money can only be used on things related to medical impairment, which cannot include any daily expenses, including food, shelter, and clothing. And the money is typically given out in installments,¹³ so if a parent cannot prove to SSA they used the first

¹¹ Office of the Inspector General SSA, *Dedicated Accounts for Supplemental Security Income Recipients* (Sept. 2023), <https://oig.ssa.gov/assets/uploads/a-04-21-51031.pdf>.

¹² Social Security Advisory Board (SSAB), 2019 Annual Statement at 1, https://s3-us-gov-west-1.amazonaws.com/cg-778536a2-e58c-44f1-9173-29749804ec54/uploads/2019/11/20190516_2019-Annual-Statement_Web.pdf; 20 C.F.R. 416.640(e).

¹³ See SSA, Programs Operations Manual System (POMS), SI 02101.020.B.3 *Amount and Timing of Installment Payments*, Feb 7, 2014, <https://secure.ssa.gov/poms.nsf/lnx/0502101020>. (Describing how SSA deposits past-due payments in three lump-sums at six month intervals. The first and second installment must be no more than three times the FBR, and the last installment is the remaining amount).

installment correctly – sometimes simply because they cannot locate all of their receipts – SSA will frequently refuse to release the second or third installments of the back money.

Many parents, even those I represent, are unable to keep up with these rules and as a result, never collect this money. Some children do not have disabilities that require disability-related purchases that are not covered by Pennsylvania’s robust child Medicaid benefit. Moreover, families know exactly what their children need, and more often than not, they need more money for daily expenses like school clothes or food. The rules are perverse: adaptive clothing is a permitted expense, but non-adaptive school uniforms that allow the child to attend school are not. Special dietary supplements are a permitted expense, but nutritious fresh produce is not. Many families believe they are following the rules by carefully making sure that all of back money is used only for the immediate needs of the child receiving SSI, and then they are heartbroken and embarrassed when they are told that they broke the rules, and they will not get the rest of the money because it went to their child’s daily needs instead of targeted medical purchases.

SSA staff spend countless hours administrating this policy, asking parents to complete, and then they review long forms accounting for how this money is spent. Because parents can ask for an exception to use this money for other purposes, SSA staff often have to meet with parents repeatedly to see if they agree with the parents’ chosen expenditures. This is time-consuming, burdensome, and arbitrary, and many parents give up and just never use the funds their child has been awarded.

Congress should act to change requirements that SSA monitor past-due child’s benefits via dedicated accounts. But even before Congress acts, the Social Security Commissioner should take steps now to help minimize this problem. The Social Security Commissioner should use its authority under Title XIV of the Social Security Act to broaden the allowable uses for these funds and relax the onerous reporting requirements on caregivers.¹⁴ SSA could look to the more relaxed expenditure rules of ABLÉ accounts¹⁵ as a model, which allow funds to be used for all disability related expenses, defined to include expense related to housing, education, transportation, and basic living expenses. Doing so would significantly reduce the administrative burden on claimants by realigning the permissible uses of the funds with common expectations: that the funds be used for the disabled child.

V. More Needs to be Done to Reduce SSA’s Administrative Burdens.

Ever since President Biden issued an Executive Order (EO) on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government, 14058 on December 13, 2021, SSA has taken important steps to reduce administrative burdens. Some recent examples include streamlining two overly complex forms that beneficiaries must complete when their disability is reviewed (SSA-454-BK), or when they are seeking waivers to overpayments (SSA-632-BK). SSA has also issued important proposals to streamline outdated and very complex policies related to when beneficiaries get assistance from others. Those proposals are: Omitting Food

¹⁴ SSAB, 2021 SSI Statement on Dedicated Accounts, at 11 <https://www.ssab.gov/research/2021-ssi-statement-on-dedicated-accounts/>.

¹⁵ POMS SI 01130.740, <https://secure.ssa.gov/poms.nsf/lnx/0501130740>.

from In-Kind Support and Maintenance Calculations, Docket No. SSA-2021-0014; Expansion of the Rental Subsidy Policy for Supplemental Security Income (SSI) Applicants and Recipients, Docket number SSA-2023-0010; and Expand the Definition of Public Assistance Household, Docket No. SSA-2023-0015.

Tweaking outdated policies and editing these forms may seem like small steps, but they are a big deal. By reducing each of these forms by four to five pages, the agency has reduced the burden both on claimants and SSA staff reviewing these forms. We applaud these reforms, but more can and should be done.

As noted above, SSA processes remain riddled with very detailed, often illogical rules which SSA staff are burdened to administer. Mistakes are understandably made frequently, which can have real consequences on consumers and take lots of time to unravel. SSA should continue to take steps to streamline every public-facing form it asks consumers to complete, put as much as they can online, and automate processes wherever possible. By taking additional steps to revise and update outdated policies and forms, SSA will make benefits easier to access and help the agency provide better customer service with the limited resources they have.

Thank you very much for inviting me to testify today.

Respectfully submitted,

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