CRS Report for Congress

Substance Abusers: New Rules for Disability Benefits from Supplemental Security Income and Social Security Disability Insurance

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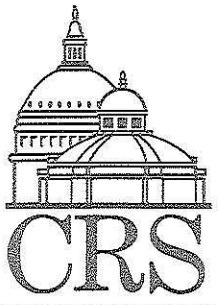

SUBSTANCE ABUSERS: NEW RULES FOR DISABILITY BENEFITS FROM SUPPLEMENTAL SECURITY INCOME AND SOCIAL SECURITY DISABILITY INSURANCE

SUMMARY

Drug addiction and alcoholism can qualify a person for cash benefits under the Federal Government's two major disability programs. The Social Security Disability Insurance (DI) program, funded by social security payroll taxes, makes cash payments to disabled persons in amounts related to their earnings in covered employment. The Supplemental Security Income (SSI), funded by general revenues, provides monthly cash benefits to "needy" disabled persons with limited resources. In October 1994, the SSI rolls held 97,093 persons who had been medically determined to be drug addicts or alcoholics. In 1994, the U.S. General Accounting Office (GAO) estimated that at least another 153,000 recipients of disability benefits from SSI and/or DI also were substance abusers. In all, GAO estimated that about 3% of disabled adults in the two programs were drug addicts or alcoholics and that they received about $1.4 billion in benefits yearly.

Since its 1972 enactment, SSI has required that payments for drug addicts or alcoholics be made to a representative payee (i.e., a person or agency responsible for managing the recipient's finances), that recipients participate in treatment if available, and that the treatment be monitored. Despite representative payee rules, recipient substance abusers often obtain their cash benefits through persuasion, coercion, or collusion with inappropriate payees. Further, in 1991, the Department of Health and Human Services (DHHS) Inspector General (IG) reported that the Social Security Administration (SSA) did not know the treatment status of most of the SSI recipients classified as drug addicts or alcoholics and that the agency provided very little monitoring. In 1994, the IG reported that only 1% of the 20,101 substance abusers whose cases it surveyed became ineligible for program benefits because of medical recovery or significant earnings.

In 1994, the 103rd Congress responded to concerns that some SSI and DI recipients were using their Federal cash payments to support their addictions by passing legislation (P.L. 103-296) that places a 3-year time limit on program benefits to drug addicts and alcoholics, extends requirements on treatment and monitoring to DI recipients, requires DI substance abusers to have a representative payee, and gives preference to qualified organizations and agencies as representative payees.

The 104th Congress has reopened the question of whether disability cash benefits should be granted to persons disabled solely by substance abuse. In marking up the Personal Responsibility Act, part of the House Republican Contract with America, the House Ways and Means Subcommittee on Human Resources on Feb. 15, 1995 voted to eliminate SSI benefits and Medicaid coverage for persons disabled solely on the basis of drug addiction or alcoholism. The subcommittee proposal would authorize use of some of the resulting Federal savings ($100 million annually for 4 years) to fund drug treatment and drug abuse research. Another approach has been proposed: requiring that SSI and DI recipients classified as substance abusers be given vouchers instead of cash. Underlying the new debate are two concerns: that the "unlimited" use of social security trust funds to meet new monitoring requirements may be drastically higher than expected and not worth the additional expenditures given the insufficient supply of drug treatment facilities and the relatively low success rates of many treatment programs, and that the time limit on program benefits may result in more homelessness, more crime, and increased costs for States and localities.

TABLE OF CONTENTS

LIST OF TABLES

LIST OF CHARTS

ACKNOWLEDGEMENTS

This report has benefited from the comments and suggestions of David Koitz, Geoffrey Kollmann, Vee Burke of the Education and Public Welfare Division of CRS, and Tom Parrott and others at the Social Security Administration.

SUBSTANCE ABUSERS[1]: NEW RULES FOR DISABILITY BENEFITS FROM SUPPLEMENTAL SECURITY INCOME AND SOCIAL SECURITY DISABILITY INSURANCE

NEW LAW

The rapid growth in the number of Supplemental Security Income (SSI) recipients[2] classified as substance abusers, news accounts of recipients' using their benefits to purchase drugs or alcohol, and the Social Security Administration's (SSA) failure to monitor those on SSI -- where enrollment in a treatment program is required -- led to enactment, Aug. 15, 1994, of the Social Security Independence and Program Improvements Act of 1994 (P.L. 103-296). This Act tightens the rules for the enrollment of drug addicts and alcoholics in *both* the Social Security Disability Insurance (DI) and SSI programs. The new law imposes sanctions for failing to get treatment, limits program benefits to 3 years, and requires that those receiving DI undergo treatment and have representative payees to manage their finances.

Benefits to Substance Abusers Only Through Representative Payees

Since its inception, SSI law has required that the SSI payments of individuals who have been diagnosed and classified as drug addicts or alcoholics must be made to another individual, or an appropriate public or private organization (i.e., the individual's "representative payee") for the use and benefit of the individual or eligible spouse. The representative payee is responsible for managing the SSI recipient's finances. Before enactment of P.L. 103-296, Federal law did not require the use of representative payees for drug addicts and alcoholics enrolled in the DI program.

P.L. 103-296 requires that DI recipients whose drug addiction or alcoholism is a contributing factor material to their disability receive DI payments through a representative payee (effective Mar. 1, 1995). P.L. 103-296 expands the list of organizations qualified to act as representative payees (effective Dec. 1, 1994). The list now includes (1) community-based nonprofit social service agencies licensed or bonded by the State, (2) Federal, State or local agencies whose mission is to carry out income maintenance, social service, or health care-related services, (3) State or local government agencies with fiduciary responsibilities, or (4) a designee of the nonfederal agencies mentioned.

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[1]This report uses the terms "substance abusers" and "drug addicts and alcoholics" interchangeably. Although from a biomedical perspective, there is not total agreement on making a distinction between drug addicts and alcoholics; the distinction between alcohol and illegal drugs is clearly valid from the legal perspective. Both the DI and SSI programs use the terms drug addicts and alcoholics.

[2]See appendix A for more details.

The new law gives preference to organizations as representative payees, unless appointing a family member would be "appropriate." The conference report says that many substance abusers are abusive to family members and that some family members turn over the SSI check to the recipient. SSA would *not* deem family members appropriate representative payees in such cases. The conference report also states that "there are no circumstances under which bartenders should be permitted to serve as representative payees for the customers they serve."[3] Qualified organizations, effective Dec. 1, 1994, may charge SSI and DI drug addicts and alcoholics a monthly fee equal to 10% of the monthly payment or $50, whichever is less, indexed to the Consumer Price Index.[4] (For representative payees of SSI and DI recipients who are not classified as substance abusers, the fee amount did not change.)

Treatment Requirements Expanded

Many substance abusers currently on the SSI rolls have been diagnosed as having other primary impairments, and thus are not classified as SSI drug addicts or alcoholics. Only the SSI recipients classified as drug addicts or alcoholics are required to undergo appropriate treatment, if it is available. It is SSA's responsibility (via referral and monitoring agencies) to find appropriate treatment for these recipients. SSI drug addicts and alcoholics must comply with the terms of their treatment program and with monitoring and testing provided by the Secretary of the Department of Health and Human Services (DHHS).

Before enactment of P.L. 103-296, there were no parallel treatment requirements for DI recipients. P.L. 103-296 stipulates that SSI and DI recipients whose alcoholism or drug addiction is a contributing factor material to their disability must be required to undergo substance abuse treatment that is appropriate for the individual's addiction and for the stage of the individual's rehabilitation, at an approved facility. The new law requires the DHHS Secretary, in consultation with drug and alcohol treatment professionals, to issue regulations that define appropriate treatment and compliance, and establish guidelines for evaluating compliance, including measures of the progress expected of participants.

The new law further requires that benefits be suspended for SSI and DI recipients who fail to undergo or comply with required treatment for drug addiction or alcoholism. (During the suspension period, Medicaid benefits would continue for SSI recipients and

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[3]U.S. Congress. House. Committee of Conference. *Report to Accompany H.R. 4277.* House Report No. 103-670, 103rd Cong., 2nd Sess. Washington, GPO, 1994. p. 111. (Hereafter cited as House Committee of Conference, *Report to Accompany H.R. 4277*)

[4]P.L. 103-296 requires the DHHS Secretary to conduct a study of the cost, feasibility, and equity of requiring all DI and SSI recipients who suffer from drug addiction or alcoholism (including those whose addiction did not contribute materially to the determination of disability) to have a representative payee. The study also must focus on the extent to which child recipients are afflicted by drug addiction or alcoholism, and ways of addressing such abuse, and the extent to which representative payees of children (usually the parent) are substance abusers. A report on the findings and recommendations of the study is due (to the House Ways and Means Committee and the Senate Finance Committee) by Apr. 1, 1995.

Medicare benefits would continue for DI recipients.) To qualify for benefit reinstatement, SSI and DI recipients would have to demonstrate compliance with treatment for progressively longer periods -- 2 months, 3 months, and 6 months for the first, second, third (and subsequent) instances of noncompliance, respectively. An individual's SSI or DI benefits would be ended after he or she was suspended for 12 consecutive months. SSI or DI recipients classified as drug addicts or alcoholics would become ineligible for Medicaid or Medicare benefits after 12 consecutive months of suspension for noncompliance with treatment requirements. Substance abusers who are dropped from either SSI or DI because of noncompliance would be permitted to reapply for benefits.

Improved and More Comprehensive Monitoring

Since its inception SSI law has required that the DHHS Secretary provide for the monitoring and testing of all SSI recipients who qualified for the program on the basis of drug addiction or alcoholism, but 1994 testimony by SSA Commissioner Shirley Chater indicated that monitoring and testing procedures were absent in most States. To perform these functions, SSA contracts with State agencies and private organizations serving as referral and monitoring agencies (RMAs). The RMAs refer SSI drug addicts and alcoholics to approved treatment facilities, monitor their treatment, and report noncompliance and successful treatment to SSA.

P.L. 103-296 requires the DHHS Secretary to establish at least one RMA for each State. These agencies are to identify appropriate placements for SSI and DI recipients who are drug addicts and alcoholics, refer them to treatment, monitor compliance, and report failures to comply to the DHHS Secretary. The new law requires the DHHS Secretary to provide for testing of DI recipients, as is required for SSI recipients. In addition, the DHHS Secretary is required to submit a one-time report on referral, monitoring, and testing activities with respect to the SSI program and annual reports for the DI program.[5] P.L. 103-296 also authorizes the transfer of "such sums as are necessary" from the Old-Age and Survivors Insurance (OASI) trust fund and from the DI trust fund for referral, monitoring, and testing of drug addicts and alcoholics.

Program Benefits Limited to Three Years

Before enactment of P.L. 103-296, SSI and DI recipients diagnosed as drug addicts or alcoholics received program benefits as long as they remained disabled. The new law requires that beginning Mar. 1, 1995 SSI and DI recipients whose drug addiction or alcoholism is a contributing factor material to SSA's determination that they are disabled be dropped from the rolls after receiving 36 months of benefits unless they are disabled for some reason other than drug addiction or alcoholism.

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[5]The law also requires the DHHS Secretary to develop and carry out demonstration projects designed to explore innovative referral, monitoring, and treatment approaches for drug addicts and alcoholics. The Secretary is required to submit a report on the findings to the House Committee on Ways and Means and the Senate Committee on Finance by Dec. 31, 1997.

For SSI substance abusers, the 36-month period will run regardless of whether appropriate treatment is available. Medicaid benefits are to continue beyond the 3-year limit, as long as the individual remains disabled, unless he or she was expelled from SSI for noncompliance with treatment. The 36-month limit applies to DI substance abusers only for months when appropriate treatment is available. DI substance abusers are to be dropped from the rolls after receiving benefits while in treatment for 36 months. Medicare benefits are to continue beyond the 3-year limit, as long as the individual remains disabled, unless he or she was dropped from DI for noncompliance with treatment. The 3-year limit is a lifetime prohibition. No subsequent enrollment in DI or SSI can occur if drug addiction or alcoholism is a contributing factor, and an individual whose DI benefits ended after 36 months cannot be eligible for SSI.

Dependents' Benefits. Dependents are entitled to DI benefits only so long as the worker on whose wage record benefits are paid is entitled. P.L. 103-296 continues dependent's benefits as long as the worker on whose record benefits are paid continues to be disabled. Thus, even if the DI drug addict or alcoholic were suspended or dropped from the program because of failure to comply with treatment or because of the 3-year limit, his or her dependents would continue to receive a dependent's benefit as long as the DI recipient remained disabled (from the substance abuse or another impairment).

Lump-sum Retroactive Payments. P.L. 103-296 prohibits large one-time payments of past-due (i.e., retroactive) benefits. The new law requires that retroactive lump-sum SSI or DI benefits for individuals whose drug addiction or alcoholism is a contributing factor material to the disability generally be prorated and paid gradually. Each monthly payment -- installment plus monthly benefit -- would be limited to 200% of the regular benefit amount for DI recipients and 200% of the maximum monthly SSI benefit amount (Federal payment plus any State supplement) for SSI recipients.[6]

ONGOING ISSUES

Should Persons Classified as SSI or DI Drug Addicts and Alcoholics Receive Cash Benefits?

Since its beginning, the SSI program has treated SSI recipients classified as drug addicts or alcoholics differently from other disabled recipients. In 1972, the authors of the SSI program viewed the requirements for representative payees, and the rules for treatment and monitoring as measures to prevent persons classified as substance abusers from using their cash benefits to buy drugs or alcohol. P.L. 103-296 extends these distinctions to certain DI substance abusers. This restrictive treatment of drug addicts and alcoholics lends some support to the argument their disability (i.e., drug addiction and/or alcoholism) is less "legitimate" than one caused by birth, accident, or injury. Proponents of this view maintain that drug abusers caused their own impairment (disability), and argue

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[6]If SSA determines that there is a high risk of homelessness for the SSI or DI substance abuser due to outstanding housing debts incurred while the person was awaiting an eligibility decision, the first installment may be increased by the amount needed to cover the debt. In addition, if the recipient dies, and DI or SSI underpayment may be paid to survivors under existing procedures.

that taxpayers should not be indefinitely burdened by the abusers' poor judgement and lack of willpower.

The disability definition is strict; it requires the presence of a medically determinable impairment as well as the inability of the disabled person to engage in substantial gainful activity. In practice, however, clinicians have indicated that it is difficult to determine whether a drug addict or alcoholic is truly unable to work. Moreover, persons applying for DI or SSI disability based solely on a drug or alcohol addiction generally are *not* required or even asked to present evidence or prior drug treatment. There appears to be a growing consensus that substance abusers need treatment, not money. Legislative proposals that require that SSI and DI recipients classified as substance abusers be given vouchers (for food, clothing, shelter, and perhaps treatment) instead of cash,[7] may well be introduced this Congress.

Not all SSI and DI recipients classified as drug addicts or alcoholics still abuse drugs. There are no data that indicate the extent of current drug use by persons classified as SSI or DI substance abusers.[8] Much of the controversy and concern is based on a relatively small number of individuals cited in newspaper articles and investigative studies or interviewed by newscasters and others. P.L. 103-296 does not amend the definition of disability to exclude drug addicts and alcoholics in either the SSI or DI programs. Thus, it is argued that substance abusers who abide by the new tougher payee and treatment requirements should continue to be entitled to cash benefits.

The House Ways and Means Subcommittee on Human Resources, Feb. 13-15, 1995, marked up the Personal Responsibility Act, part of the House Republican Contract with America. The subcommittee voted to eliminate SSI benefits and Medicaid coverage for persons who were disabled solely on the basis of drug addiction or alcoholism. The subcommittee agreed that for purposes of the SSI program an individual shall not be considered disabled solely on the basis of his or her addiction to drugs or alcohol and that for the 4 years beginning with FY1997, $100 million of the savings realized from denying cash SSI payments and Medicaid benefits to drug addicts and alcoholics would be targeted to drug treatment and drug abuse research. The subcommittee document, as amended, was ordered favorably reported on Feb. 15, 1995.

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[7]P.L. 103-296 requires the DHHS Secretary to conduct a study of providing noncash benefits to drug addicts and alcoholics, focusing on issues of cost and equity as well as feasibility. The study is due Dec. 31, 1995.

[8]The Conference report on H.R. 4277 (P.L. 103-296) states: *In requiring SSA to provide drug testing, the conferees intend that this authority be used as a tool for assessing compliance with treatment in those instances where a test is likely to yield important information. This provision should not be interpreted as requiring random drug or alcohol testing of all DI and SSI beneficiaries who are disabled by alcoholism or drug addiction.* [House Committee of Conference, *Report to Accompany H.R. 4277*, p. 114.]

Can Drug Treatment Succeed?

The overall success of drug treatment programs with respect to the SSI program has been very poor. It appears from available data that almost no persons classified as SSI drug addicts or alcoholics recover enough to leave the rolls. In preparing a 1994 report on SSI payments to drug addicts and alcoholics, the DHHS IG examined the records of SSI substance abusers who were on the rolls in June 1990 and found that 3 years later only 1% (197 recipients) had left the SSI rolls because of significant earnings or medical improvement.[9]

Drug treatment professionals often characterize dependence on drugs or alcohol as a chronic, relapsing disorder. They assert that drug-seeking behavior and the strong desire or craving for drugs are often difficult to extinguish once they have been established. They report that most "hard core" drug abusers relapse after their first (and later) attempts at self-recovery and that most people who recover after treatment do so only after more than one treatment episode.[10] Thus, for the most part, professionals who treat substance abusers expect many of them to have relapses before they can maintain sobriety. In testimony before the House Ways and Means Subcommittee on Human Resources (Jan. 27, 1995), Dr. Herbert Kleber of Columbia University testified that although it is true that individuals become addicts or alcoholics through their own actions, once the person is a substance abuser, there appear to be significant changes in the brain, making relapse likely.

P.L. 103-296 requires that benefits be suspended for SSI and DI recipients who fail to undergo or comply with required treatment for drug addiction or alcoholism. This policy may be opposed by drug treatment professionals who consider relapse a part of the recovery process. Some clinicians contend that they, rather than the Federal Government should determine the consequences of noncompliance (e.g., transfer to another program, discharge from the program, etc.). However, other drug treatment professionals would agree that suspending cash benefits may be the incentive needed by those who "fall off the wagon" to "get back on." Proponents of tough program requirements for SSI and DI substance abusers argue that unlike many other disabled persons, those with substance addictions often can influence their recovery by their own actions. They maintain that the public has the right, therefore, to expect substance abusers who fail to comply with treatment requirements to lose their benefits.

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[9]U.S. Dept. of Health and Human Services. Office of Inspector General. *SSI Payments to Drug Addicts and Alcoholics: Continued Dependence, An Expanded Analysis*, Nov. 1994. Washington, 1994. p. ii. (Hereafter cited as Department of Health and Human Services, *SSI Payments to Drug Addicts and Alcoholics*)

[10]Institute of Medicine. Committee for the Substance Abuse Coverage Study Division of Health Care Services. *Treating Drug Problems*. In Gerstein, Dean R., and Henrick J. Harwood, eds. *Volume 1, A Study of the Evolution, Effectiveness, and Financing of Public and Private Drug Treatment Systems*. Washington, National Academy Press, 1990. p. 5-7.

There is widespread agreement among drug treatment professionals that drug treatment (e.g., residential therapeutic centers, methadone maintenance programs, outpatient counseling, alcoholics anonymous, narcotics anonymous, etc.) works. However, they also agree that more treatment programs are needed and that more research is needed to find more effective treatments. In her testimony before the House Ways and Means Subcommittee on Human Resources, Jan. 27, 1995, Doctor Sally Satel of Yale University stated: *"study after study shows that predatory crime, lost productivity and other financial burdens that fall on the shoulders of law-abiding citizens and on society are diminished substantially when addicted persons are treated. Not only that, the money saved in this way exceeds the cost of their treatment, often by a great margin."* Doctor Kleber testified that every dollar invested in treatment generates between $3 and $7 of savings elsewhere in our health and criminal justice system. They also testified that waiting lists for treatment are long. According to Doctor Kleber, the Office of National Drug Control Policy estimates that the current treatment system can handle 1.4 million drug addicts a year, while there is a need to treat between 2.5-3 million.[11]

Effect of Time Limit on State Costs

The conference report on H.R. 4277, the Social Security Independence and Program Improvements Act of 1994 (P.L. 103-296), shows estimated *Federal* savings of $86 million in FY1995 attributable to restrictions on SSI and DI program benefits to drug addicts and alcoholics; cost savings from the 5-year (1995-1999) total are estimated at $840 million, $242 million from the DI program and $598 million from the SSI program.

Many Governors, State legislators, and local officials are concerned that tightening rules associated with the use of program benefits by SSI and DI substance abusers and imposing a 3-year time limit may result in increased State costs. Some State and local policymakers may argue that in effect the 3-year limit required by P.L. 103-296 on SSI and DI program benefits for recipients classified as substance abusers is an unfunded mandate (i.e., an instance in which the Federal Government has failed to fund its policy decisions). It appears that the States will have to bear some costs associated with aiding these persons via State general assistance programs, increased State and local funds for homeless shelters and food banks, and increased law enforcement costs associated with drug-related activities. Although the extent of such costs has not been estimated, there is concern that the States may end up with costs that equal or exceed the Federal Government's estimated $598 million 5-year savings.

Proponents of the 3-year limit argue that the new law does not require States to provide any benefits or services to ex-SSI or DI recipients who were classified as substance abusers. They note that a number of States do not have and may never have had general assistance programs, i.e., a safety net for those persons who do not qualify for the Federal cash welfare programs (SSI or Aid to Families with Dependent Children (AFDC)).

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[11]U.S. Congress. House. Committee on Ways and Means. Subcommittee on Human Resources. *Changing Eligibility for Supplemental Security Income*. Hearing, 104th Cong., 1st Sess., Jan. 27, 1995. Washington, 1995.

They maintain that individuals will have to start taking responsibility for themselves and their actions.

Increased Homelessness?

While SSA and others have found homeless shelters to be a good location to conduct outreach efforts, SSI data indicate that very few SSI recipients are homeless. Some argue that although very few SSI or DI recipients now are homeless, the new 3-year time limit will increase the number who are. They maintain that the probability that drug addicts and alcoholics will become homeless when their cash benefits end is higher than that for some other groups because their drug use and maintenance of their addiction may have alienated many of their families. Moreover, substance abusers are more likely than other groups to have a low attachment to the labor force and the addiction of some has resulted in a felony conviction, a barrier to employment. Others contend that concern may be overblown about increased homelessness among drug addicts and alcoholics whose benefits end. They reason that once the new policy is known, many substance abusers will seek and successfully complete treatment programs, seek job training opportunities, and reestablish family relationships.

More Crime?

Opponents of time-limited benefits for SSI or DI substance abusers are concerned that some practicing drug addicts and alcoholics who no longer receive monthly cash disability payments because they have reached the 3-year limit on benefit receipt will resort to criminal activity to purchase drugs. A 1992 report issued by the Bureau of Justice Statistics stated that although the link between drug use and crime is complex, there is extensive evidence of the strong relationship between illegal drug use and crime.[12]

Proponents of stricter requirements on SSI or DI drug addicts and alcoholics maintain that many substance abusers never resort to crime and that those who do should not be given any special consideration or sympathy. They argue that in years past indigent men and women survived without resorting to illegal activities; in many cases by begging, borrowing, selling their blood, performing odd jobs, working as day laborers, etc. A recent DHHS IG report that tracked 20,101 SSI drug addicts and alcoholics between June 1990 and February 1994 appears to support the contention that most SSI substance abusers are law-abiding. It indicates that only 2% (370) of SSI substance abusers were in jail or another public institution at the end of that period.[13]

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[12]U.S. Dept. of Justice. Bureau of Justice Statistics. *Drugs, Crime, and the Justice System -- A National Report from the Bureau of Justice Statistics*. NCJ-133652, Dec. 1992. Washington, 1992. p. 2.

[13]U.S. Dept. of Health and Human Services. Office of Inspector General. *SSI Payments to Drug Addicts and Alcoholics: Continued Dependence, An Expanded Analysis*, Nov. 1994. Washington, 1994. p. 6.

APPENDIX A: SUBSTANCE ABUSERS IN THE SSI AND DI PROGRAMS: BACKGROUND

The Social Security Administration (SSA) operates two programs that provide cash benefits to persons who because of a physical or mental impairment are unable to earn a living. Under both DI and SSI persons who are addicted to alcohol or other drugs may qualify for benefits. According to a May 1994 U.S. General Accounting Office (GAO) report, an estimated 250,000 persons whose diagnosis included a finding of substance abuse are enrolled in the SSI and/or DI program (97,000 of these persons are SSI recipients whose primary disability is substance abuse). GAO reported that the cost of their benefits was about $1.4 billion per year.

The GAO estimate was derived by examining selected data from recipients' files in 1993. SSA reports that it has historically done a poor job of attaching the proper diagnostic code on SSI recipients and has had no reason to systematically code DI recipients. Thus, it reports that the GAO estimate of 250,000 probably understates the actual number of recipients with substance addictions[14]; GAO agreed with this assessment. SSA itself has not issued an estimate of the number of substance abusers in the two programs. Because DI recipients who are drug addicts or alcoholics are not required to be classified, this report discusses caseload numbers only as they relate to SSI recipients, including those who also receive DI benefits.

The DI program (title II of the Social Security Act), enacted in 1956, provides payments to eligible individuals in amounts related to their earnings in covered employment. Funding is provided through the social security payroll tax, of which a portion is allocated to a separate disability insurance trust fund. The 1950 amendments to the Social Security Act added the program of grants to States for aid to the permanently and totally disabled (APTD, title XIV of the Act). It was one of the predecessor programs to SSI. Adults who were diagnosed as being drug addicts or alcoholic could qualify for benefits under State APTD programs.

SSI (title XVI of the Social Security Act), enacted in 1972 and implemented in 1974, provides cash payments to needy aged, blind, or disabled persons with limited resources. The purpose of the SSI program, which supplements any other cash income, is to assure a national minimum cash income guarantee to eligible persons. In March 1994, 32% of disabled SSI recipients also received DI payments. Disabled persons qualify for SSI because they are not insured by the DI program or their DI benefits are low. Funding for SSI comes through appropriations from general revenues.

Substance Abusers Included in SSI Program

SSI provisions relating to drug addicts and alcoholics were contained in the original SSI law (P.L. 92-603) enacted in 1972. Initially, the Senate sought to exclude these

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[14]U.S. General Accounting Office. *Social Security -- Major Changes Needed for Disability Benefits for Addicts*. GAO/HEHS-94-128, May 1994. Washington, 1994. p. 22

individuals from SSI by putting them in a *separate* program.[15] Members of the Senate argued that needy drug addicts and alcoholics would need more than the cash payments that SSA could provide, that they would need treatment, case management, and close monitoring so that they would not use the SSI benefits to "support their alcoholism or addiction." The Senate provision for excluding drug addicts and alcoholics from the SSI program was deleted in favor of the House provision for a requirement that recipients undergo treatment, and the Senate's concern about providing direct payments to substance abusers was accommodated by the provision requiring that benefits be provided through representative payees.[16]

Since enactment of SSI, section 1631(a)(2)(A)(ii) of the Social Security Act required SSI recipients who were disabled because of drug addiction or alcoholism to have a representative payee; section 1611(e)(3)(A) of the Social Security Act required that these recipients participate in an approved treatment program when available and appropriate; and section 1611(e)(3)(B) of the Social Security Act required these recipients to allow their participation in that treatment program to be monitored by SSA. Before August 1994, there were **no** similar restrictions for drug addicts and alcoholics who were enrolled in the DI program.

Disability Definition

Under both the DI and SSI programs, a disabled individual is defined as a person who is unable to engage in any "substantial gainful activity" (SGA)[17] by reason of a medically determined physical or mental impairment expected to result in death or that has lasted, or can be expected to last, for a continuous period of at least 12 months.[18]

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[15]The Senate Finance Committee approved an amendment precluding eligibility of medically determinable alcoholics and addicts for Aid to Families with Dependent Children (AFDC) and SSI benefits. Instead, the Senate provided that alcoholics and addicts otherwise eligible for AFDC or SSI would be eligible to receive help through an alcoholism and/or addiction treatment program that would be established under title XV (a new title) of the Social Security Act, if the State chose to institute such a program. U.S. Congress. Senate. Committee on Finance. *Social Security Amendments of 1972*. Report to Accompany H.R. 1. Senate Report No. 92-1230, 92nd Cong., 2nd Sess., Sept. 26, 1972. Washington, GPO, 1972. p. 299-303. (Hereafter cited as Senate Finance Committee, *Social Security Amendments of 1972*)

[16]U.S. Congress. House. Committee on Ways and Means. *Report on H.R. 1, Social Security Amendments of 1971*. House Report No. 92-231, 92nd Cong., 1st Sess., May 26, 1971. Washington, GPO, 1971. p. 149; and Senate Finance Committee, *Social Security Amendments of 1972*.

[17]The DHHS Secretary has specific regulatory authority to prescribe the criteria for determining when earnings derived from employment demonstrate an individual's ability to engage in SGA. Since Jan. 1, 1990, the SGA earnings level has been set at $500 per month (net of impairment-related work expenses).

[18]The determination of disability in DI and SSI is a five-step sequential process. This process includes assessments to determine whether the applicant is engaged in SGA, and whether the applicant has an impairment or a combination of impairments severe enough to prevent him or her from

(continued...)

Generally, the individual must be unable to do any kind of work that exists in the national economy, taking into account age, education, and work experience. Under the DI program, a person must be disabled continuously for 5 full months before he or she can receive DI benefits. Moreover, to be insured for disability, a worker generally must have 20 quarters of coverage in the 40 quarter period preceding onset of the disability. Under the SSI program, there are no prior work requirements and no waiting period for benefits. Instead, the individual must meet a means test.

With the exception of explicit criteria for the blind, the law does not contain eligibility criteria pertaining to specific bases for disability. Thus, what constitutes a disability for DI and SSI purposes is left to the administrators of the program to determine. Before the mid-1970s, many medical professionals, administrators of disability programs, legal professionals, and others held the view that drug addicts and alcoholics were persons who lacked the will or moral character to curb their self-indulgence. Thus, the Federal disability programs generally allowed substance abusers to qualify for program benefits only if their abuse of drugs or alcohol resulted in physical symptoms of a non-substance abuse impairment severe enough in nature to prevent the individual from gainful work. This policy was often referred to as "end organ damage," reflecting the view that alcoholism or drug addiction was a medically determinable physical or mental impairment only if it manifested itself in significant damage to an organ or any significant mental impairment.

In January 1975, a decision by the U.S. Court of Appeals for the Ninth Circuit, in *Griffis v. Weinberger*, struck down an SSA regulation specifying that to qualify as a disability alcoholism or drug addiction had to be combined with some other impairment. The court held that the basic consideration is whether the person is suffering from a condition that prevents him or her from engaging in SGA. Thus, the court said that alcoholism and drug addiction may in and of themselves be disabilities, provided the condition is severe enough to preclude the person from engaging in substantial gainful activity.[19] By July 1975, the Federal regulations had been modified to reflect this ruling. Thus, under current program criteria for both DI and SSI, drug addiction and alcoholism by themselves can constitute an impairment qualifying an individual for program benefits.

Caseload Growth

Table 1 shows the number of SSI recipients whose primary diagnosis was drug addiction or alcoholism for the years 1975 through 1994. From a high of 10,000 when

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[18](...continued)
performing work. The evaluation of these early stages in the process includes medical and vocational evidence to substantiate the claims of disability. In addition, the disability determination process provides several levels of review if benefits are denied, including reconsideration of denials by State disability determination services, then appeals to SSA administrative law judges, the SSA Appeals Council, and ultimately, to Federal court.

[19]*Griffis v. Weinberger*, 509 F 2d 837 (9th Cir. 1975). See, more recently, *Petition of Sullivan*, 904 F 2d 826 (3rd Cir. 1990) agreeing with the earlier court's ruling.

the program first started, the number dropped to 3,000 in 1983.[20] Since then the number has increased at an accelerating pace, reaching 97,093 in October 1994, an increase of 3,236%. As a percentage of the SSI disabled adult population, the number of SSI substance abusers doubled from 1987 to 1990 and redoubled, from 1990 to 1994. From February 1994 to October 1994, the number of persons receiving SSI after being medically determined to be drug addicts or alcoholics climbed 21%, from 80,332 to 97,093. They now represent 2.1% of the SSI disabled adult population, up from 0.7% in 1989. Several factors probably contributed to the caseload growth of SSI substance abusers, including SSI outreach efforts, county/State encouragement of SSI application by persons receiving AFDC, greater efforts by State Disability Determination Services to identify drug addicts and alcoholics as they review and decide upon applications for disability payments, and the sharing of information about SSI by recipients with other substance abusers.

Increased Outreach

Since 1989, SSA had made outreach an ongoing agency priority.[21] In 1990, Congress mandated SSA to expand the scope of its SSI outreach activities and provided special funding for SSA to award cooperative agreements to outside organizations and interagency efforts for the purpose of testing effective, efficient, transferable approaches to doing outreach. Congress appropriated $3 million in FY1990 and $6 million in each of the years FY1991-1994 for SSI outreach activities. SSI outreach projects have targeted a wide variety of groups, including persons with disabilities, the homeless, and minority and ethnic communities. It appears that outreach efforts have contributed to the increased enrollment of substance abusers. Table 2 shows a 510% increase in the number of substance abusers awarded SSI payments from 1989 to 1993, from 2,854 to 17,423.

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[20]Notwithstanding the disability definition adopted for the SSI program, persons enrolled in the Federal/State APTD program during Dec. 1973 on the basis of a State plan in effect during Oct. 1972 were covered by a "grandfather" clause in the SSI law. Thus, they were eligible for SSI benefits in Jan. 1974 without meeting the Federal criteria. Such transferees accounted for nearly 97% of the drug addicts and alcoholics enrolled in SSI at the beginning of the program. Between 1975 and 1983 many of the transferees were dropped after their cases were reviewed in accordance with the SSI rules.

[21]The emphasis on outreach evolved from the perception that many elderly and disabled persons with below poverty-level incomes were not receiving SSI, in part, because they are unaware of the program. Moveover, it was felt that personnel at senior citizen centers, social workers, and others in the aging and disability networks often did not know enough about SSI to identify potential recipients and to instruct then on how and where to apply for benefits.

TABLE 1. SSI-Disability Recipients Classified as Drug Addicts or Alcoholics, Age 18-64, 1975-1994[a]

Year	Total	Drug addicts and alcoholic recipients[b]	
		Number	% of total
1975	1,678,200	10,000	0.6
1976	1,685,900	9,000	0.5
1977	1,730,400	6,000	0.3
1978	1,706,000	5,000	0.3
1979	1,680,000	4,000	0.2
1980	1,686,400	5,000	0.3
1981	1,668,600	4,000	0.2
1982	1,618,300	4,000	0.2
1983	1,660,900	3,000	0.2
1984	1,775,300	4,000	0.2
1985	1,840,300	5,000	0.3
1986	2,021,100	7,000	0.3
1987	2,128,000	10,200	0.5
1988	2,214,700	12,800	0.6
1989	2,318,300	16,800	0.7
1990	2,462,100	23,700	1.0
1991	2,604,500	33,900	1.3
1992	2,858,800	53,700	1.9
1993	3,071,200	78,700	2.6
1994	4,691,600[c]	97,100[d]	2.1

[a]SSA was unable to furnish comparable figures for DI.

[b]Excludes recipients where alcoholism or drug addiction was not primary basis for entitlement.

[c]As of Sept. 1994.

[d]As of Oct. 1994.

Source: SSA. Office of Disability, Mar. 1994.

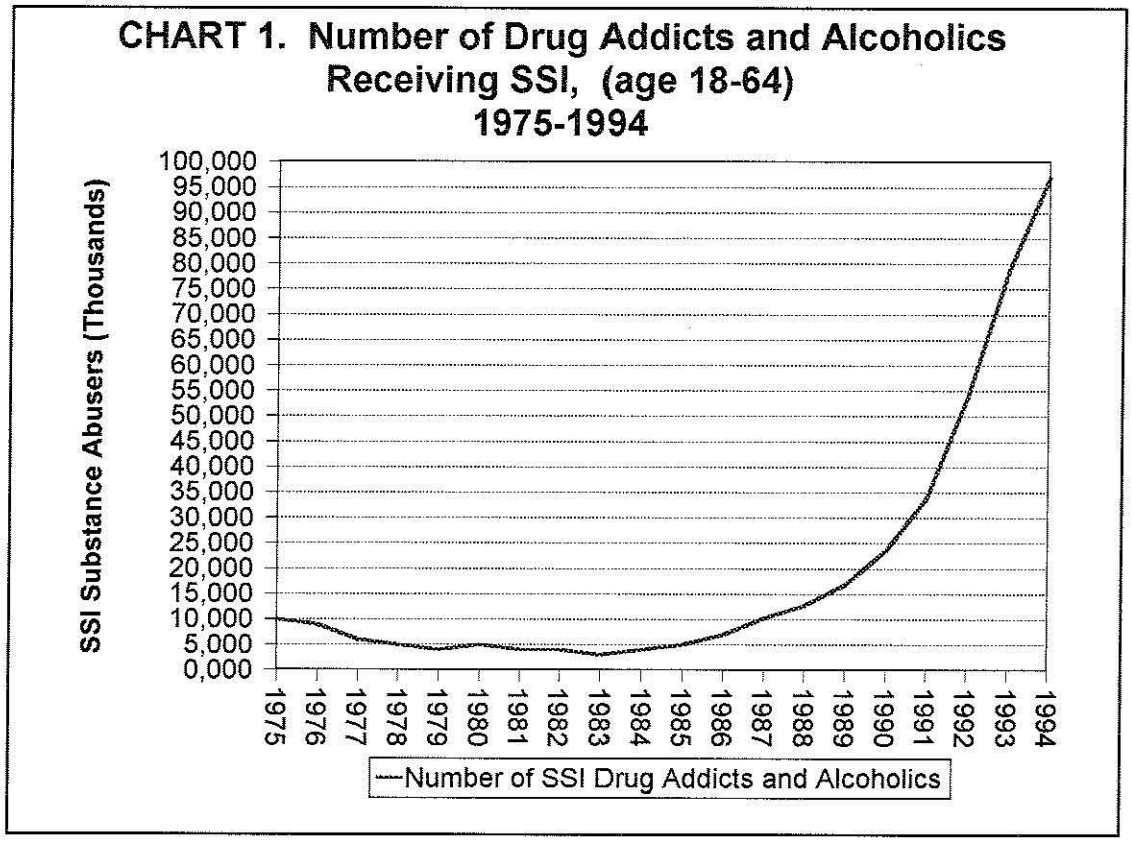

TABLE 2. State-Agency Disability Awards for Substance Addiction Disorders,* CY1988-1993

Calendar year	DI-only	Concurrent DI/SSI	SSI-only	Total
1988	401	1,267	1,760	3,428
1989	536	1,702	2,854	5,092
1990	732	2,787	5,272	8,791
1991	996	4,272	7,897	13,165
1992	1,805	8,155	14,809	24,769
1993	1,926	9,661	17,423	29,010

*Based on primary impairment code.

Source: SSA. Office of Disability, Apr. 1994.

Few Rehabilitations

Recent data indicate that the number of substance abusers enrolled in SSI is increasing while the number of recipients leaving the rolls because of medical recovery or higher earnings is decreasing. A 1994 DHHS Inspector General report on drug addicts and alcoholics receiving SSI benefits found that only 1% of the SSI substance abusers surveyed became ineligible for program benefits because of medical recovery or because they found a job (with significant earnings). According to the report, the average time spent on the SSI program of those surveyed was 7.4 years. At the end of the period between June 1990 and February 1994, 76% of the 20,101 SSI drug addicts and alcoholics surveyed still were on the SSI rolls (70% still were classified as drug addicts or alcoholics, 6% were receiving SSI payments but no longer were labeled drug addicts or alcoholics). Of the remaining 4,830 who were not receiving SSI benefits, half had died (12%); 2% were dropped from the rolls because they refused treatment; 2% were in jail or another public institution; 4% were dropped because of the amount of other benefits received; as noted above, 1% recovered from their disability or became ineligible because of earnings; and the remaining 3% dropped for some other reason.[22] crsphpgw

[22]Department of Health and Human Services, *SSI Payments to Drug Addicts and Alcoholics*. p. 10 plus appendices.