

APPENDIX – INTERACTIONS AMONG VARIOUS BENEFITS AND SERVICES FOR WORKING-AGE PERSONS WITH DISABILITIES

The relationship and interaction of Social Security Disability Insurance (SSDI) and other benefit systems and services are important considerations in public policy discussions as they bear on evaluating possible improvements to the SSDI program. The sheer number of programs and the magnitude of their costs warrant exploration. Changing perspectives regarding disability, both by persons with impairments and the public in general, are an important consideration.

To highlight some program interactions, the relationship of SSDI to Old-Age and Survivors' Insurance (OASI) and information about dual entitlement for Supplemental Security Income (SSI) disability and SSDI are summarized. The underlying principles and purposes of three work related disability benefit programs that protect against work disability are discussed—Military and Veterans, Workers' Compensation, and privately funded disability insurance programs. Relationships to SSDI are noted. Some provisions of these programs that may have applicability for SSDI reform or better program integration follow.

Unemployment Insurance and Temporary Disability Insurance (TDI) programs (in five states and Puerto Rico) are mentioned only to show any potential or lack thereof to help improve the SSDI process and outcomes. The number and lack of coordination of federal programs providing services to persons with disability are noted using material from Government Accountability Office (GAO) reports.

SSDI and OASI

In the United States, as in most Western societies, individuals of working age are expected to work. Social insurance recognizes the need for protection against the inability to work and loss of income because of aging, retirement, death, and disability. Workers and their employers contribute to a fund that provides income protection when defined events occur. Workers (and/or their dependents and survivors) can access these funds when they have met certain coverage requirements (i.e., have worked and contributed long enough) and, in the case of retirement, attained a defined age.

Both OASI and SSDI are social insurance programs. Benefits are calculated using intricate earnings- and age-based formulas, which have evolved over time in consideration of economic and demographic alterations in the composition of the protected population. Details on benefit calculation can be found on SSA's website and in its annual statistical reports. Benefit calculations include:

- The primary insurance amount (PIA) is the monthly benefit payable to a worker upon initial entitlement at full retirement age (FRA) or upon entitlement to unreduced disability benefits. The PIA is also the base figure from which monthly benefit amounts are determined for early retirement, delayed retirement, and for the worker's family members or survivors.
- The PIA is derived from the worker's Average Indexed Monthly Earnings (AIME), annual taxable earnings from covered wages or self-employment averaged and indexed over a period that encompasses most of the worker's adult years. The formula for computing the PIA from the AIME provides a higher PIA-to-AIME ratio for workers with low earnings.
- Disabled workers and persons retiring at the FRA are paid 100 percent of the PIA. When disability benefits are converted to retired-worker benefits at FRA, or at early retirement for recovered

worker between ages of 62 and FRA, the years of disability are disregarded to preserve insured status and benefit level. Alternative methods of computing the PIA apply to workers who have low earnings but a steady work history.

- If a disabled worker receives reduced OASI benefit before receiving SSDI, the SSDI benefit is reduced by the number of months OASI benefits were received.
- Monthly benefits payable to the worker and family members or to the worker's survivors are limited to a maximum family benefit amount.
- Yearly cost-of-living increases to benefits are legislatively mandated.

The potential effect on SSDI incidence of raising the SSA retirement age (the FRA or the age at which persons can access early reduced retirement benefits) is a factor in debates about change. GAO report 11-125 (2010a) provides a very informed discussion of the effects that would occur if the FRA or the age at which reduced benefits can be accessed are changed. The report also has suggestions for mitigating disability program growth that may ensue because of these changes.

SSDI and SSI Disability Benefits

SSI is a needs-based, rather than insurance, program and requires meeting a means test to qualify for benefits as well as meeting the same definition of disability used for SSDI. It does not rely on a prior work qualification. SSI beneficiaries are limited in the amount of earned and unearned income they can receive and still qualify for SSI. A person can have SSI benefits reduced or stopped because of income and/or resource ineligibility regardless of meeting SSA's disability criteria (Morton 2014). *For purposes of SSI eligibility, SSDI benefits count as income and can reduce or completely offset SSI cash benefits.*

The SSDI program has a 5-month waiting period after the onset of categorical eligibility as disabled. SSI benefits can start right after the month of application. Thus, a categorically disabled person may be eligible for SSI benefits during the SSDI waiting period.

Some complexities arise because of different program rules regarding the date of disability onset and the date of application for disability benefits. SSDI has the potential for 12-month retroactivity in disability benefits. The SSI payment is payable in the month of application. If part or the entire SSDI waiting period occurred prior to application for SSDI, SSI benefit eligibility may be affected for the months of SSDI payment. State Medicaid benefits may be payable for SSI beneficiaries prior to or in conjunction with eventual Medicare entitlement. State rules apply.

Benefits to Servicepersons and Veterans

Principles and Purposes

The Veterans Administration (VA) and Department of Defense (DOD) both pay disability benefits based on service-connected health conditions. The VA Disability Compensation program is for veterans who have a disease or injury that incurred or was aggravated during active military service. These payments are based on the principle that the society has an obligation or liability for impairments which limit work function resulting from the risks taken by service persons and veterans. Benefits, unlike SSDI, are not contingent on whether a veteran is working. The amount of monthly benefits is based on a disability rating. The disability rating is based on the severity of the medical condition, stated as a percentage of loss of normal function it causes. Medical conditions are used exclusively in

establishing the rating schedule used by adjudicators. As of December 2013, benefits ranged from \$131 a month for a 10 percent disability to \$2,858 a month for total disability (SSA 2015). In addition, medical and vocational rehabilitation services are provided.

The DOD Disability Retirement program is for active military persons who are no longer fit for duty as a result of a service connected health condition. The benefit amount is based, in part, on the same disability percentage rating used in the VA Compensation program, although there are differences between how the ratings are made between the two programs. Ratings differences may occur in the final combined DOD and VA disability percentage because DOD by law, can only consider conditions that are related to fitness for duty. The VA determines disability ratings for all service-connected conditions. If a service member is found to be unfit due to medical conditions incurred in the line of duty, the involved military branch assigns the service member a combined percentage rating for "unfit" conditions, and the service member is discharged from duty. Depending on the overall disability rating and number of years of active duty or equivalent service, the service member found unfit for duty is entitled to either monthly disability retirement benefits or lump sum disability severance pay from the military.

VA Compensation benefits are in addition to the benefits from DOD. For each claimed condition, VA must determine if there is credible evidence to support the veteran's contention of a service connection. Once necessary evidence is gathered, a VA rating specialist evaluates the claim using the VA medical rating schedule where earnings loss is proportionate to the assessed medical loss of function. VA evaluates all medical conditions claimed by the veteran, whether or not they were previously evaluated in DOD's disability evaluation process. (The VA also administers the Veteran's Pension program, which is a needs-based program for veterans who are totally and permanently disabled due to a non-service connected medical condition and who have limited financial resources.)

GAO's (2014) recent analysis showed that 59,251 individuals received concurrent DOD disability retirement and VA Compensation, and SSDI in fiscal year 2013 totaling over \$3.5 billion. Current law generally allows military personnel to receive concurrent disability compensation from DOD, VA, and SSDI. These concurrent payments ranged from \$25,000 to \$74,999 in total. 48 percent of the individuals were age 60 or above as of January 2013. Eighty-one percent of individuals had a VA disability rating equal to or greater than 50 percent.

Relationships and Lessons

Together with the disability programs of the DOD, VA medical and disability programs have the opportunity to provide an integrated disability management approach to working age veterans. With medical and vocational services available, early intervention and coordination could increase work function and that has often been the case for veterans injured in recent combat. These can be a benefit to the SSDI program for veterans who qualify. VA and DOD benefits are not a disincentive to work because they are based on degree of service connected disability and VA medical and vocational programs could assist SSDI beneficiaries in work efforts. SSA could also learn more about the effect of assistive devices on work function by accessing and reviewing VA experience. Military and VA experience with Post Traumatic Stress Syndrome (PTSD) and brain injury could help establishing listing-level criteria as well as potential for medical improvement.

State Workers' Compensation (WC)

Principles and Purpose

WC is one of the nation's largest disability benefit programs. It is based on the principle that employers have responsibility for the health and safety of their employees. It is fully funded by employers either through purchase of insurance or self-funding. The insurance costs may be experience rated. Experience rating can result in higher (or lower) premiums for employers whose past experience demonstrates that their workers are paid more (or fewer) benefits than workers for similar employers in the same insurance classification.

WC benefits cover only disabilities arising out of and in the course of employment. The WC programs are compulsory for most private employment, except in Texas, where it is elective. Each state (other than Texas and Oklahoma) has a compensation system that is the exclusive remedy, and that establishes and limits employer liability for injury and illness in the course of employment. The purpose of the program is to pay for needed medical care and predictable compensation for earnings loss without delay when work-related accidents or illnesses occur irrespective of who was at fault. Safe return to work as soon as possible is also a goal and many states offer rehabilitation benefits to encourage return to work.

Each state sets its own benefit rules with cash benefits based on a schedule of payment rates calculated in some relationship to the severity of effect on work ability. The AMA Guides to the Evaluation of Permanent Impairment are frequently used by state WC. The guides are translated into a percentage of the whole person that is compromised by the impairment. This number is typically used to measure potential income loss and then converted to a monetary award amount. The benefit period is set based on the duration and severity of the worker's disability with lump sum payment possible.

WC benefit and medical cost in 2013 amounted to \$63.6 billion (Sengupta and Baldwin 2015). Compensation payments were \$32 billion with medical and hospitalization a further \$31.5 billion (Sengupta and Baldwin 2015). Workers' compensation pays 100 percent of medical costs for injured workers. Medical claims total about three-fourths of all WC cases. Cash benefits are generally payable for lost work time after a 3- to 7-day waiting period. The program also provides death and funeral benefits to workers' survivors. Lump-sum settlements are permitted under most programs.

- **Temporary Total Disability** – Most WC cash payments are for temporary total disability where the worker is temporarily precluded from work for a defined period of time. Most workers who receive these benefits fully recover and return to work at the expected recovery date. Most states pay weekly for temporary total disability and most often replace two thirds of the worker's pre-injury wage (tax free). The state may set a maximum amount.
- **Temporary Partial Disability** – When workers return to work before they reach maximum medical improvement and at reduced responsibilities and a lower salary, they may receive temporary partial disability benefits.
- **Permanent Total Disability** – If a worker has severe permanent impairments after he or she reaches maximum medical improvement, the worker receives permanent total disability benefits.
- **Permanent Partial Disability** – When the worker has impairments that, although permanent, do not completely limit the workers' ability to work, permanent partial disability benefits are paid. The system for determining benefits in these cases is complex and varies across jurisdictions. Cash

benefits for permanent partial disability are frequently limited to a specified duration or an aggregate dollar limit. Generally, compensation is related to earnings and to the number of dependents eligible as the survivors of workers who die from a work-related illness or injury.

Relationships and Lessons

Coordination of disability benefits has been recognized as a desirable public policy practice to ensure that disability payments are paid by the appropriate program and that the total disability benefits paid are not a disincentive for recovery and return to work. An offset for WC was contained in the original 1956 disability program. It was eliminated in 1958 and reinstated in 1965. It called for reducing SSDI benefits if the combined SSDI/WC benefit exceeded a threshold. The 1965 law, however, also allowed states to adopt a reverse offset and reduce the WC benefits for a worker receiving SSDI. After that, 15 states adopted reverse offsets. In 1981, Public Law 97-35 prevented any more states from doing so (Reno et al. 2003/2004).

In all but the 15 reverse offset states, SSDI benefits, including family benefits, may be reduced to fully or partially offset WC benefit. The reduction in worker's benefit (and family benefits) may be made if the total benefits payable *plus* workers' compensation plus any public disability benefits (if applicable) exceed the higher of:

- 80 percent of average current earnings as determined before disability began; or
- The family's total Social Security benefit (before the reduction).

Risk management programs to reduce workplace accident and illness to minimize costs are the norm for both employers and insurers. Early intervention and the provision of medical care in relationship to return to work are also important aspects of WC. Their use supports the arguments for some type of early intervention for workers potentially eligible for SSDI. Partial disability and time-limited payments have also been raised as a possibility for SSDI as has the almost exclusive WC medical rating system.

Enhancing incentives for employers to keep or return persons who are not receiving WC to work could reduce the costs of the SSDI program. One popular suggestion is that the employer portion of Federal Insurance Contributions Act (FICA) taxes be experience rated. The FICA tax paid by employers would be based on their success at keeping employees in the workforce.

Private Sector Disability Insurance

Principles and Purposes

Protection against the risk of work disability not in the course of employment (and, therefore, not covered by WC) is offered by insurers either directly to individuals or to employers. Employers may self-fund these benefits. Medium and large employers are most likely to provide such benefits. These protections are attractive to both employers and employees and may be offered as part of a benefit package to recruit and retain employees. Often these disability benefits are preceded by some amount of paid sick leave—a number of days off where salary is continued.

Short-term disability programs cover absences from their usual job because of illness and accidents not sustained in the course of employment. Employees must be out of work a certain number of days,

usually 5 before being eligible for benefits. The replacement rate is typically 50 percent of wages. Medical evidence is required. The benefits are generally paid for a set period of time based on the type of illness or injury and last no longer than 6 months. The employees and often their doctors are advised of the expected recovery date. The disability period is monitored by claims adjudicators.

Long-term disability (LTD) programs cover more lengthy absences caused by illnesses and accidents not sustained in the course of employment. There is usually a 6 month waiting period and the benefits are coordinated with any sick pay or short-term disability benefits. The disability entitlement definition for the first 6 to 12 months is generally inability to do the workers' usual and customary occupation by reason of a medically determinable impairment. Sixty percent wage replacement is the norm. Usually after one year, the person's disability must result in inability to perform the work functions of any occupation. Most LTD plans require that a person receive appropriate medical care. There is systematic follow up with both the person and their physician. Often the employer is part of a return to work effort and, as with WC, the costs of disability coverage may be affected by their experience, especially for larger employers. RTW services are provided as part of the management of the claim. Employers are increasingly aware of the cost of disability absence in terms of loss of productivity and worker replacement costs and have disability prevention as well as return to work programs—so-called disability management programs

Relationships and Lessons

LTD payments are usually offset by SSDI when the person becomes entitled to SSDI benefits. Insurers and employers maintain that this offset is important to the affordability of the coverage since it covers disability of lesser severity and for longer periods of time. Insurers also make the argument that they reduce SSDI costs by their early intervention and RTW programs. There is a counter argument that employers and insurers may increase SSDI costs by requiring SSDI filing and providing legal representation during the claim and appeals process.

Early intervention, including setting expectations for the date of return to work, can reduce the costs of both short-term and long-term disability insurance. Case management and follow up after an initial determination for LTD provide opportunities to encourage and assist in helping workers return to work. Frequently, medical professionals representing insurers and employers work with the employee's treating source to get the worker safely back to work. The availability of a job and employer involvement in return to work are important to the RTW outcomes. Employers increasingly recognize that they bear additional costs for increased disability incidence and duration.

Other Programs

Unemployment Insurance (UI)

Through federal and state cooperation, unemployment insurance programs provide benefits to regularly employed members of the labor force who become involuntarily unemployed, are able and willing to accept suitable employment and are actively seeking work. Workers in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands are covered for UI programs funded by a uniform national tax. Employers who pay taxes to a state with an approved unemployment insurance law receive credit for up to 90 percent of the state tax against the federal tax. States receive grants to cover the costs of administering the state systems if they meet certain requirements.

Unemployment benefits are available as a matter of right (without a means test) to all federal civilian employees, ex-service members, and workers whose employers contribute to or make payments in lieu of contributions to state unemployment funds. Workers must also meet any other requirements of state law. Under all state laws, the weekly amount payable for total unemployment is based on past wages within certain minimum and maximum limits.

A permanent federal-state program of Extended Benefits is in place for workers who exhaust their entitlement during periods of high unemployment. The program is financed equally from federal and state funds. In addition to the permanent Extended Benefits program, Congress from time to time enacts temporary extensions of unemployment compensation benefits.

The relationship of unemployment benefits and application for SSDI has been the subject of much discussion. Many believe persons who exhaust their unemployment benefits without finding a job then attempt access to the SSDI program, often with less than severe impairments. Some express concern about individuals who receive both SSDI (based on inability to work) and UI (for which they must be able to work). Others suggest that UI could be an important avenue for early intervention for persons with health conditions.

Temporary Disability Insurance Programs (TDI)

Five states (California, New York, New Jersey, Hawaii and Rhode Island and the Puerto Rico) have TDI programs that provide some compensation for wages lost because of temporary non-occupational disability or maternity when a person cannot perform regular and customary work. While Rhode Island has an exclusive state operated fund, while the other states have a state fund, but allow employers to opt out by purchasing insurance or self-funding, which can provide richer benefits. As an example, in California, the average weekly benefit in 2011 for TDI from state fund was \$447 and weekly benefits from private plans averaged \$924 (SSA 2015). In all states, a claimant's benefits are related to earning and entitlement duration, which varies from 26 to 52 weeks. WC benefits and sick leave payments are treated differently in these states and are usually offset. Some special offset rules regarding UI apply in New York and New Jersey.

These programs have little claims management, although some states have set up prescribed benefit periods based on the impairment or pregnancy. There is some possibility of early intervention to prevent SSDI eligibility and suggestions have been made that some type of Social Security demonstration project should be pursued.

Lack of Coordination of Federal Programs.

There is growing agreement of the need for coordination and integration of benefits and services for working-age persons with disabilities, especially in light of new and evolving concepts of disability. Additional research regarding what programs work and why, connections between programs, and the better assessment of what persons can do are all crucial in public policy initiatives. Future disability policy initiatives should not only support information sharing for effective benefit coordination but to encourage more active interaction between programs to assist people with occupational disabilities to work.

GAO (2008) has reported that there are more than 20 federal agencies and almost 200 programs which provide a wide range of assistance to people with disabilities, including employment-related services,

medical care, and monetary support. These programs provide help for working-age persons with disabilities and also assist in providing an adequate national labor force. There is a high cost to these programs. GAO (2012) later reported on 45 programs in support of employment for persons with disabilities. Administered by nine federal agencies, the programs were fragmented and often provided similar services to similar populations.

Although agencies may be partnering on a case-by-case basis, agency officials and experts have cited a lack of communication and comprehensive coordination among the federal programs that serve individuals with disabilities. With increasing expenditures, a growing potential beneficiary population, and the number of programs providing assistance to individuals with disabilities, the importance of modernizing and effectively coordinating federal disability programs is constantly increasing.

The Office of Management and Budget has worked with executive agencies to pursue consolidating or eliminating some of these programs. As a result, three programs were eliminated in the Workforce Innovation and Opportunity Act as being duplicative.

GAO (2010b) held a disability forum in 2010 to identify public and private sector options for, and the federal government's role in, assisting adults with disabilities in their efforts to remain employed or return to the workforce. A major obstacle to implementing comprehensive, successful, and timely interventions was identified as being lack of agency coordination. The responsibility for crucial supports and services was noted to be spread across various agencies. The group of disability employers, experts and advocates recommended that the federal government should have a coordinating entity to help focus and align efforts across agencies to help tie together existing funding streams and resources and use them in new ways.

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