SUPPLEMENTAL SECURITY INCOME DISABILITY PROGRAM

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC ASSISTANCE

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 10848

AN ACT TO AMEND TITLE VI OF THE SOCIAL SECURITY ACT TO PROVIDE THAT AN INDIVIDUAL WHO APPLIES FOR SUPPLEMENTAL SECURITY INCOME BENEFITS ON THE BASIS OF DISABILITY SHALL BE CONSIDERED PRESUMPTIVELY DISABLED IF HE HAS RECEIVED SOCIAL SECURITY OR SUPPLEMENTAL SECURITY INCOME BENEFITS AS A DISABLED INDIVIDUAL WITHIN THE PRECEDING FIVE YEARS

H.R. 12972

AN ACT TO AMEND TITLE XVI OF THE SOCIAL SECURITY ACT TO REMOVE CERTAIN WORK DISINCENTIVES FOR THE DISABLED UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM

SEPTEMBER 26, 1978

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

38-123 O WASHINGTON : 1979

S361-21

COMMITTEE ON FINANCE

RUSSELL B. LONG, *Chairman*

HERMAN E. TALMADGE, Georgia
ABRAHAM RIBICOFF, Connecticut
HARRY F. BYRD, Jr., Virginia
GAYLORD NELSON, Wisconsin
MIKE GRAVEL, Alaska
LLOYD BENTSEN, Texas
WILLIAM D. HATHAWAY, Maine
FLOYD K. HASKELL, Colorado
SPARK M. MATSUNAGA, Hawaii
DANIEL PATRICK MOYNIHAN, New York
CARL T. CURTIS, Nebraska
CLIFFORD P. HANSEN, Wyoming
ROBERT DOLE, Kansas
BOB PACKWOOD, Oregon
WILLIAM V. ROTH, Jr., Delaware
PAUL LAXALT, Nevada
JOHN C. DANFORTH, Missouri

MICHAEL STERN, *Staff Director*
GEORGE W. PRITTS, Jr., *Minority Counsel*

SUBCOMMITTEE ON PUBLIC ASSISTANCE

DANIEL PATRICK MOYNIHAN, New York, *Chairman*

RUSSELL B. LONG, Louisiana
WILLIAM D. HATHAWAY, Maine
JOHN C. DANFORTH, Missouri
CARL T. CURTIS, Nebraska

CONTENTS

ADMINISTRATION WITNESSES

Page

Wortman, Don I., Acting Commissioner of Social Security, accompanied by Ray Bowmin, Director, Division of Disability Policy; and Tom Staples, Director, Division of Supplemental Security Studies ---- 14

PUBLIC WITNESSES

Boggs, Dr. Elizabeth, on behalf of the National Association for Retarded Citizens ---- 45
Darnsberg, Denise ---- 67
Gorski, Robert, Westside Community for Independent Living ---- 21
Health Insurance Association of America, Gerald S. Parker, vice president for health insurance, Guardian Life Insurance Co ---- 39
Keys, Hon. Martha, a Representative in Congress from the State of Kansas ---- 10
National Association for Retarded Citizens, Dr. Elizabeth Boggs ---- 45
Parker, Gerald S., vice president for health insurance Guardian Life Insurance Co., on behalf of the Health Insurance Association of America ---- 39
Sanders, Greg, Center for Independent Living ---- 19
Stark, Hon. Fortney H., a Representative in Congress from the State of California ---- 8
Westside Community for Independent Living, Robert Gorski ---- 21

COMMUNICATIONS

Bowe, Frank G., Ph. D., director, American Coalition of Citizens With Disabilities, Inc ---- 71
Jones, Gerald, legislative director, Paralized Veterans of America ---- 68
Savitz, Reuven, deputy administrator/commissioner, intergovernmental relations, New York City Human Resources Administration ---- 69

APPENDIX

Questions submitted by Senator Moynihan with responses from the Social Security Administration ---- 74

ADDITIONAL INFORMATION

Committee press release ---- 1
Text of the bills H.R. 10848, H.R. 12972 ---- 5
Statement of National Association of State Mental Retardation Program Directors, Inc ---- 47

SUPPLEMENTAL SECURITY INCOME DISABILITY PROGRAM

TUESDAY, SEPTEMBER 26, 1978

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC ASSISTANCE
OF THE COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 5:05 p.m. in room 2228, Dirksen Senate Office Building, Hon. Daniel P. Moynihan (chairman of the subcommittee) presiding.

Present: Senators Moynihan, and Danforth.

[The press release announcing this hearing and the bills H.R. 10848, H.R. 12972, follow.]

Senator MOYNIHAN. A very good late afternoon to you all. This opens a hearing of the Subcommittee on Public Assistance of the Senate Committee on Finance in which we are taking up for consideration the issues raised by H.R. 12972 and H.R. 10848, and the general subject of SSI and disability matters.

We are very pleased and honored this afternoon to have our colleague and friend, Congressman Stark of California to open these hearings. We welcome you to this committee, sir.

[Press Release]

FINANCE SUBCOMMITTEE ON PUBLIC ASSISTANCE SETS HEARINGS ON BILLS RELATED TO SUPPLEMENTAL SECURITY INCOME DISABILITY PROGRAM

The Hon. Daniel Patrick Moynihan (D-N.Y.), Chairman of the Subcommittee on Public Assistance of the Finance Committee, announced that a public hearing will be held on H.R. 10848 and H.R. 12972, bills passed by the House of Representatives which modify the disability aspects of the Supplemental Security Income program. The hearing will be held on Tuesday, September 26, 1978. The hearing will begin at 10 a.m., and will be held in room 2221, Dirksen Senate Office Building.

H.R. 10848 would permit SSI payments to be resumed on a presumptive basis pending a formal determination of disability in any case where the claimant had been receiving disability payments within the past five years but had his eligibility terminated because of his work activity. If the formal determination found the individual not to be disabled, he would be required to repay the amounts received as a result of this legislation.

H.R. 12972 would modify the definition of disability as it applies to the Supplemental Security Income program. Under present law, an individual is considered to be disabled if he has a medically determinable impairment which is sufficiently severe as to prevent him from engaging in "substantial gainful activity". As this term is now applied, an individual would be found "not disabled" if he had the capacity to earn as much as $240 per month, taking into account his disability, education, age, and vocational background. Under H.R. 12972 an individual could be found "not disabled" on the basis of his earnings capacity only if he were able to earn as much as the SSI "breakeven point." The monthly SSI "breakeven point" is now approximately $440 for a single

individual and $630 for an individual with an eligible spouse. These amounts would be further increased under the bill by any work expenses plus any amount needed for attendent care.

Senator Moynihan observed that "The Supplemental Security Income Program, which was originally considered primarily a program for the needy aged of this country, has increasingly become a program for the disabled. In May of this year, for example, Social Security Administration offices received four times as many claims for disability payments as for payments based on old-age, and over 63 percent of the SSI benefit payments for that month went to disabled recipients. It is my understanding that the Administration is now completing a review of the Social Security Act disability programs and plans to make significant legislative recommendations concerning them in the near future. It is my hope that this hearing will develop information not only on the particular needs which these two bills are intended to address but also on the implications they have for the more comprehensive review of the disability program by the next Congress."

Witnesses who desire to testify at the hearing should submit a written request to Michael Stern, Staff Director, Committee on Finance, Room 2227 Dirksen Office Building, Washington, D.C. 20510 by no later than the close of business on Friday, September 15, 1978.

Consolidated Testimony.—Senator Moynihan also stated that the Subcommittee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Subcommittee. This procedure will enable the Subcommittee to receive a wider expression of views than it might otherwise obtain. The Chairman urged very strongly that all witnesses exert a maximum effort to consolidate and coordinate their statements.

Legislative Reorganization Act.—Senator Moynihan stated that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Witnesses scheduled to testify must comply with the following rules:

(1) A copy of the statement must be filed by the close of business 2 days before the day the witness is scheduled to testify.

(2) All witnesses must include with their written statement a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-size paper (not legal size) and at least 75 copies must be submitted by noon on the day before the witness is scheduled to testify.

(4) Witnesses are not to read their written statements to the Committee, but are to confine their ten-minute oral presentation to a summary of the points included in the statement.

(5) Not more than 10 minutes will be allowed for oral presentation.

Written Testimony.—Senator Moynihan stated that the Subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length and mailed with five copies by September 29, 1978, to Michael Stern, Staff Director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.

95TH CONGRESS
2D SESSION

H. R. 10848

IN THE SENATE OF THE UNITED STATES

JULY 18 (legislative day, MAY 17), 1978
Read twice and referred to the Committee on Finance

AN ACT

To amend title VI of the Social Security Act to provide that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received social security or supplemental security income benefits as a disabled individual within the preceding five years.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 1614 (a) (3) of the Social Security Act is
4 amended by adding at the end thereof the following new
5 subparagraph:
6 "(F) An individual applying for benefits under this
7 title as a disabled individual (or as an eligible spouse on
8 the basis of disability) shall be considered presumptively

1 disabled if, within the five years preceding the date of the
2 application, he was treated for purposes of this title or title
3 II as a disabled individual but ceased to be so treated be-
4 cause of his performance of substantial gainful activity; but
5 nothing in this paragraph shall prevent his performance of
6 such gainful activity from being taken into account in deter-
7 mining whether he is currently disabled in fact.".

8 SEC. 2. Section 1631 (a) (4) (B) of the Social Security
9 Act is amended by striking out "shall in no event be con-
10 sidered overpayments" and inserting in lieu thereof "shall
11 not (except where such individual applied for such benefits
12 on the basis of disability and was presumptively disabled
13 solely by reason of section 1614 (a) (3) (F)) be considered
14 overpayments".

15 SEC. 3. The amendments made by this Act shall apply
16 with respect to applications filed on or after the first day of
17 the month following the month in which this Act is enacted.

Passed the House of Representatives July 17, 1978.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

95TH CONGRESS
2D SESSION

H. R. 12972

IN THE SENATE OF THE UNITED STATES

AUGUST 2 (legislative day, MAY 17), 1978
Read twice and referred to the Committee on Finance

AN ACT

To amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 EARNINGS LEVEL FOR DETERMINING SUBSTANTIAL
4 GAINFUL ACTIVITY
5 SECTION 1. Section 1614(a)(3)(D) of the Social
6 Security Act is amended by inserting immediately after the
7 first sentence thereof the following new sentence: "Such
8 criteria must in any event provide that an individual engaged
9 in gainful activity shall not, by reason of his or her earnings
10 from such activity, be considered able to engage in sub-

II

38-123 O - 79 - 2

1 stantial gainful activity unless the total amount of such
2 earnings for the period involved exceeds the level at which
3 the portion thereof not excluded (in determining such in-
4 dividual's income) under clause (i) of section 1612 (b)
5 (4) (B), reduced by the sum of the amounts (if any) ex-
6 cluded for such period under clauses (ii) and (iii) of such
7 section 1612 (b) (4) (B), equals the amount of the benefit
8 or benefits that would be payable to such individual for such
9 period under section 1611 (b) (1) or 1611 (b) (2) (which-
10 ever is applicable to such individual) if he or she had no
11 income of any kind.".

12 EXCLUSION OF WORK-RELATED EXPENSES, AND CERTAIN
13 COSTS OF ATTENDANT CARE, FOR THE DISABLED (AND
14 FOR THE BLIND)

15 SEC. 2. (a) Section 1612 (b) (4) (B) of the Social
16 Security Act is amended by striking out "and (ii)" and
17 inserting in lieu thereof the following: "(ii) an amount
18 equal to any expenses reasonably attributable to the earning
19 of any income, (iii) such additional amounts of earned in-
20 come of such individual (if such individual's disability is
21 sufficiently severe to result in a functional limitation requiring
22 assistance in order for him to work, whether or not that
23 assistance is also needed to carry out his normal daily func-
24 tions) as may be necessary (as determined by the Secretary)
25 to pay the costs of attendant care, and (iv)".

1 (b) Section 1612(b)(4)(A) of such Act is amended
2 by striking out "and (iii)" and inserting in lieu thereof the
3 following: "(iii) such additional amounts of earned income
4 of such individual (if such individual's blindness results in
5 a functional limitation requiring assistance in order for him
6 to work, whether or not that assistance is also needed to
7 carry out his normal daily functions) as may be necessary
8 (as determined by the Secretary) to pay the costs of at-
9 tendant care, and (iv)".

10 EFFECTIVE DATES

11 SEC. 3. The amendment made by section 1 shall apply
12 with respect to activities in which individuals engage on and
13 after the first day of the month in which this Act is enacted,
14 or October 1, 1978, whichever is later. The amendment made
15 by section 2 shall apply with respect to expenses incurred on
16 and after the first day of the month in which this Act is
17 enacted, or October 1, 1978, whichever is later.

Passed the House of Representatives August 1, 1978.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

STATEMENT OF FORTNEY H. STARK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Representative STARK. Thank you, Mr. Chairman and Senator Danforth. I appreciate very much the chance to testify here today and request your support in whatever form there may be time, and in what little time remains in this session, for H.R. 10848.

You have my written testimony and I think I can briefly summarize for you what 10848 will do.

Under present law, if a person is disabled—and this applies only to SSI recipients, and not to Social Security recipients—if they work for more than 9 months and, in those 9 months, earn more than $230 each month, they are presumed no longer to be disabled. If something should happen to their job, or if their disability should reoccur, or if the company they are working for goes broke, or any other reason the person stops working, he or she is left without not only the $230 a month but they are also left without any kind of medical coverage—medicare, medicaid, private medical insurance. It all terminates.

Now, many of these people, require a good bit of expensive medical attention, and what the present law really does is prohibits them from taking the risk—which is a much greater risk for a disabled person than it is for a nondisabled person—to go into the job market and try working in an attempt to become self-sufficient.

What our bill would do is, instead of at the end of 9 months making the person go through a long process of reapplying for SSI benefits, which could take probably at least 3 months, but in some cases up to a year before they can get back on H.R. 10848 would allow that for a period of 5 years they would be presumed to still be disabled, and if they were fired, if they quit because they felt they could not make it, if the company went broke, whatever; they could go back and the presumption would be on their side that they are still disabled. The Government, of course, could challenge that presumption and take into consideration the fact that they had worked, but they could not summarily deny their benefits just on the basis of their employment.

The Office of Management and Budget and HEW, I believe, have indicated that there would be probably little or no cost to this bill. I would like to be optimistic enough to think that the number of people—and certainly all the disabled people that I have worked with and talked with, and the ones who testified before the House Committee on Welfare Reform which was organized last year to work on welfare reform—every indication is that there are many disabled people who really want to work, and they just want any chance that they can. But the fear of losing those medical benefits, in many cases, prohibits them from taking that big step. Your favorable reaction to H.R. 10848 would go a long way, at little cost to the Government, and certainly with no administrative problems, to open up, and remove, another barrier, if you will, and let many more disabled people, become self-supporting.

I would be glad to answer any questions you may have.

Senator MOYNIHAN. Let me say that, not just the fact that you are for this measure, but advance reports of it makes it so that the very presumption would favor it over here.

Would you elaborate for our record as to just how the 5-year arrangement would work.

Representative STARK. OK. Perhaps, for the record, I would read in that part of the testimony. It would allow any person who had received SSI disability payments within the past 5 years to be considered to be presumptively disabled. If benefits have been terminated because of the work test. The presumptive disability category would guarantee immediate benefits for that person and medicaid eligibility for a period of 3 months. During that time, a review could be conducted to determine if, in fact, the disability had remained unchanged or had worsened, in which case the benefits would continue.

Senator MOYNIHAN. Is this, in a sense, a retroactive measure that would establish that those persons who have lost their eligibility previously will now be brought back into the program?

Representative STARK. I do not believe so. The staff is wagging their head in the negative, so it would not be retroactive.

Senator MOYNIHAN. What if the benefits had already terminated?

Representative STARK. No, I think this would only apply to those people now receiving SSI benefits. It is retroactive only in the sense of people who have received SSI within the last 5 years and lost benefits because of working.

Senator MOYNIHAN. If someone who had been receiving SSI benefits under the disability provision, returned to work and subsequently lost those benefits, would there be a reinstatement of the earlier eligibility for a 3-month period? Certainly such a provision would lower the risk that an individual must take when entering the job market.

Representative STARK. Correct.

Senator MOYNIHAN. It seems to make perfect sense to me.

Senator Danforth?

Senator DANFORTH. I have no questions.

Senator MOYNIHAN. Well, we could keep you here all night, Congressman, but——

Representative STARK. Senator, I just wanted to again thank you for letting me testify today. I want to suggest that this bill coming in any form—it came out of the Ways and Means Committee unanimously and, I think, had only 11 or 12 votes against it in the House. I am sure it would be welcome in any conference as a rider or anyplace else.

While we would all like to claim authorship to a bill, I think that many of the people here in the Chamber today who have been lobbying for this bill for some time are the real authors of this bill and they indeed, and the people they represent, will be the beneficiaries.

Senator DANFORTH. Did anybody testify against it in the House?

Representative STARK. Senator, to my recollection, nobody has testified against it, and there has been no objection—there has been some lack of support out of OMB, but HEW, I would let them speak for themselves, have registered no objections. I do not think there was any strong opposition that I can recall, or any testimony against it.

Senator MOYNIHAN. Thank you very much, sir.

[The prepared statement of Representative Stark follows:]

STATEMENT OF THE HONORABLE FORTNEY H. STARK, JR.

Mr. Chairman, Members of the Committee: H.R. 10848 offers a chance for the severely disabled to achieve self-sufficiency with little or no additional cost to the government. Current law creates a fear of failure in the disabled, discourag-

ing them from looking for employment. If a disabled person works for more than nine months and earns more than $230 a month, he or she is no longer considered to be disabled in the eyes of the social security administration. That is fine as long as the person is able to work. If the person is not able to continue working, or the job is terminated for some reason, that person is left with absolutely nothing to fall back upon. These people have tremendous needs, both medical and financial, and the prospects of being left without benefits is a great disincentive to take jobs that might otherwise be available to them. In order to requalify for SSI benefits, the disabled person must prove, once again, that he or she is still disabled. That process can take months, sometimes up to a year, to complete.

This bill is simple in concept and structure. It would allow any person who had received SSI disability payments within the past five years to be considered to be "presumptively disabled" if the benefits had been terminated because of the work test. The presumptive disability category would guarantee immediate benefits for that person, and medicaid eligibility for a period of three months. During that time, a review would be conducted to determine if, in fact, the disability had remained unchanged or had worsened; in which case, benefits would continue.

The bill does not directly affect title two disability, and was approved by a unanimous vote of the ways and means committee. The House of Representatives, on July 17, 1978, approved this measure by an overwhelming majority of 351-32, which indicates the depth of support that it has in the Congress. H.R. 10848, has received the support of all of the major advocacy groups around the nation. Both HEW and CBO have projected no additional costs associated with this bill, and I believe that we can actually save money by getting more people off of the rolls and into jobs.

The bill contains a provision that would allow the agency to take into account the employment and earnings that were previously considered to be an indication of ability to perform substantial gainful activity, when making the new determination of eligibility. I want to caution, however, that the mere fact that a person has worked is not sufficient evidence to deny benefits to anyone. The agency would be expected to examine all relavent factors surrounding a person's inability to work. This would reinforce and incorporate the concept in present law that an individual can be eligible for SSI benefits despite a previously demonstrated ability to perform substantial gainful activity.

In short, this legislation is desperately needed to enable the disabled in this country to achieve the independence they have sought for so long. It does not cost us anything, and may even save some money. It will provide positive reinforcement for these severely disabled individuals to make that supreme effort to find a job and take their place in the mainstream of society.

Thank you very much, Mr. Chairman and members of the committee, I would be happy to answer any questions that you might have.

Senator MOYNIHAN. Our next witness must be Congresswoman Keys—oh, there you are. I did not see you back in the shadows.

How very nice of you to be here. Good afternoon to you, and we welcome you to this committee.

STATEMENT OF HON. MARTHA KEYS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Representative KEYS. Thank you very much, Mr. Chairman and Mr. Danforth. I am happy to have the opportunity to come and testify about a bill that I think is of extreme importance and I hope you will agree with me.

I would like to say, before I begin, that I also would like to state support for the bill that Mr. Stark just testified in favor of. I think it is a measure that approaches relief for the same group that I am concerned about in the bill I want to testify for.

As you know, our SSI program is intended to provide subsistence income for aged, blind, and disabled, and it does provide a maximum

benefit of $139.40 a month and also entitlement, in most States, to medicaid. Like many other assistance programs, it provides a work incentive by permitting the beneficiary to retain $1 of benefits for every $2 the beneficiary earns. As a result, the beneficiary's benefits are graduated up to a level that is slightly over $5,000 annually before all benefits are lost, and thus medicaid eligibility as well.

While it would appear, on the face of it, that under SSI we treat the aged and the blind and the disabled equally, as a matter of fact, we do not and because we superimpose on SSI from title II a definition of disability, we find that the disabled under SSI, title XVI, can earn only about one-half of what the aged and the blind can earn under the program without losing the last of their benefits, and therefore their medicaid eligibility. The phase-out mechanism in SSI, therefore, just does not operate for the disabled at all, and if the disabled person earns $1 over $240 a month, that person automatically loses all SSI benefits and, therefore, medicaid eligibility. And, of course, this cliff results in a very severe work disincentive for the handicapped person.

When they attempt to enter the labor market, the conditions prevail which Mr. Stark has so eloquently described. They suffer an enormous burden. They have to pay for not only ordinary living expenses, but also much more to accommodate the extraordinary costs related to employment, daily functioning and medical care.

In the face of these costs, obviously the handicapped person needs to earn more than the ordinary individual in order to be gainfully employed.

H.R. 12972 would eliminate these work disincentives in the SSI program by doing three things. It would adjust the definition of substantial gainful activity. It would increase that level to exactly the phase-out point that is now applicable to the blind and to the aged. That really is about $445 per month.

Second, it would provide the income disregard for work-related expenses that are already provided for the blind. It would provide the same thing for the disabled person.

And finally it would provide an income disregard for both disabled and blind for the cost of attendant care if it is needed—and of course this is work related and related to income producing.

I want you to know that this legislation passed out of both subcommittee and full committee unanimously. It passed out of the House on August 1 by a vote of 399 to 4. It affects only a limited number of people, but it is very critical to their ability to function and be productive, independent human beings.

You are going to have opposition expressed to the amendment. I cannot avoid that. You will hear it. And you will hear the administration opposing it because of the fear that it somehow will prejudice what may happen in our attempts to deal with disability in title II.

But I would say to you that these are people that cannot wait for some change to provide some kind of balance between the two. The mistake was made in the first place when that definition of disability was carried over from title II to title XVI.

We have already had at least one case in California of an individual who, upon finding that the SGA test had been reached and the eligibility for benefits and medical assistance be withdrawn, finding the choice of going back to an institution less desirable than sui-

cide. And I think, while that is a case that is a tragedy that is on the record, I think that that expresses the extreme despair of the person who finds himself in that situation and finds the rent being perhaps $200 a month and yet, the moment they reach $240 a month income, they have no choice but to lose any benefit at all and lose help with their health care costs.

So I think you may have a vote on. I am trying to shorten my testimony and not go through all the points, but I would like to answer some questions, because I do feel that this is a bill that must be considered and given real consideration in this Congress.

Senator MOYNIHAN. Well, it was so good of you to come over and testify, Ms. Keys. Could you help us with one more point?

Does your legislation provide an income disregard for normal work-related expenses, such as that now provided for the blind, and a disregard for attendant care? And, if so, do those work-related expenses provide a flat $65 exclusion?

Representative KEYS. No; those work-related expenses are any special work-related expenses that must be documented, and they now are in the law for the blind, but not for the disabled.

Senator MOYNIHAN. Let me ask some of my colleagues here. Have we got this clear?

[Pause.]

Representative KEYS. The $65 income disregard is just——

Senator MOYNIHAN. The income disregard for the SSI program.

Representative KEYS. Right.

Senator MOYNIHAN. If you have the work-related expenses provision, as now provided for the blind, is there a need for income disregard. too?

Representative KEYS. Well, the income disregard, I would suppose, is in there to try to provide some work incentive for anyone who is eligible for SSI who might be able to produce income on their own, and I think that——

Senator MOYNIHAN. The disregard is meant as an incentive to work.

Representative KEYS. Right.

Senator MOYNIHAN. Well, that is exactly the sort of clarification of your bills legislative history that I seek.

Senator Danforth?

Senator DANFORTH. No questions.

Senator MOYNIHAN. Well, we thank you very much. Do you have any suggestions as to how we should try to get this on the floor this year? Have you any ideas about how you should handle this? The Finance Committee has been so absorbed in its deliberations on the Tax bill that we haven't had an opportunity to discuss the most appropriate strategy.

Representative KEYS. I would urge you to make every effort to find a way which you are much more expert about knowing the rules of this body than I am. I do know that there are a number of other members of the Finance Committee that are interested in this bill, and certainly some of those who worked so excellently and well in helping the House understand this issue and push it to the forefront because of its immediacy have been working here as well, and I think you will find a great deal of interest in the bill.

Senator MOYNIHAN. I am going to try to bring this bill through the Finance Committee and to the floor in the next few weeks. Excuse me, Senator Danforth and I are being summoned by the Sergeant at Arms. As you are well aware; however, it is a time when, for many reasons—some of them more attractive than others—there are Senators whose interest it is to see that nothing happens on the floor.

If we are not successful now, we will be back on the floor in January. I believe, from what I now know of this legislation, that it is good legislation. Therefore, please do not think we have forgotten you, no matter what happens in the next crazy fortnight.

Representative KEYS. Many will appreciate your diligent efforts, Senator.

Senator MOYNIHAN. We certainly are going to try.

[The prepared statement of Representative Keys follows:]

STATEMENT OF HON. MARTHA KEYS

The Supplemental Security Income Program is a program intended to provide a subsistence income for the aged, blind and disabled. The program provides a maximum benefit of $189.40 a month and entitlement in most states to Medicaid or other medical assistance. Like many other assistance programs, SSI provides a work incentive by permitting a beneficiary to retain $1 of benefits for every $2 he earns. As a result, a recipient's benefits are gradually reduced as his earnings increase to slightly over $5,000 annually.

While it would appear on the face of the SSI program that the aged, blind and disabled are treated equally, they are not. Because of the superimposition of the Title II, Disability Insurance, definition of "disability" upon the SSI program, the disabled can only earn about one-half of what the aged and the blind earn under the program. I do not believe this was the intent of Congress in enacting SSI.

The phase-out mechanism in SSI does not operate for the disabled. If a disabled person earns $1 more than $240 a month, he immediately loses all SSI benefits. This cliff results in a severe work disincentive for the handicapped.

In attempting to enter the labor market, handicapped individuals suffer under an enormous burden. They must not only make enough to pay for their ordinary living expenses, but they must earn significantly more to overcome the extraordinary costs related to employment, daily functioning and medical care. In the face of such extraordinary costs, handicapped persons must earn much more than the ordinary individual in order to be "gainfully employed".

H.R. 12972 would eliminate the work disincentives in the SSI program by adjusting the definition of "substantial gainful activity" to reflect the true cost of being a handicapped worker. The bill, first, increases the SGA level to the phase-out point now applicable to the aged and the blind—i.e. the phase-out point for federal SSI benefits. Second, the bill provides an income disregard for "work-related" expenses for the disabled as are now provided for the blind. Finally, the bill provides an income disregard for both the blind and disabled for the cost of attendant care.

This legislation passed the House on August 1st by a vote of 399–4. I consider it one of the most important bills we have worked on this year. While it affects only a limited number of people, it is critical to their ability to function as normal, productive human beings—to work and live in a fashion which you and I take for granted.

The frustrations of attempting to maintain a job and lead a productive life in the face of such work disincentives is sometimes more than an individual can bear. In a tragic case in California, a young woman committed suicide when the SSI office discovered she had been working. She had not told the office of her job because of her fear of losing the assistance which permitted her to work. It is a sad condemnation of our present system that it actively restrains people from working.

We are now spending Government funds to rehabilitate the handicapped and to create jobs for them. However, we keep them from taking jobs by telling them they will lose all aid, all medical benefits and all social services if they earn

$1 more than $240 a month. This is an irrational system which needs to be changed.

During the debate on this bill in the House, my colleague Mr. Vander Jagt pointed out that this was the number one problem cited by disabled persons who testified at the welfare reform hearings around the country. We cannot ignore these voices. This measure implements the recommendations of the White House Conference on the Handicapped and is supported by a dozen organizations representing the handicapped.

This legislation would return rationality to our system. It would let the SSI program operate at it was intended to operate. It would eliminate the tremendous work disincentive which now exists for the handicapped and permit them to secure productive employment.

The House has overwhelmingly approved this measure, and I urge my Senate colleagues to act favorably on this legislation at the earliest possible date.

Senator MOYNIHAN. I am going to have to recess the hearings briefly. If I am not arrested by the Sergeant at Arms, I will return. If I am arrested, Senator Danforth will do his best.

[A brief recess was taken.]

Senator MOYNIHAN. Good afternoon again, and we now have the pleasure of hearing our next witness, who is the Honorable Don I. Wortman, the Acting Commissioner of Social Security.

Mr. Wortman, we welcome you.

Mr. WORTMAN. Thank you, Mr. Chairman. I would like to introduce my two associates here at the table with me. On my right is Ray Bonin, who is Director of our Division of Disability Policy; and on my left is Tom Staples, who is Director of our Division of Supplemental Security Studies.

Senator MOYNIHAN. Mr. Bonin, Mr. Staples, we welcome you here.

Mr. WORTMAN. With your permission, sir, I will proceed to read my statement.

Senator MOYNIHAN. Please do.

STATEMENT OF DON I. WORTMAN, ACTING COMMISSIONER OF SOCIAL SECURITY, ACCOMPANIED BY RAY BONIN, DIRECTOR, DIVISION OF DISABILITY POLICY; AND TOM STAPLES, DIRECTOR, DIVISION OF SUPPLEMENTAL SECURITY STUDIES

Mr. WORTMAN. Mr. Chairman, I welcome the opportunity to appear before you today to discuss two bills under consideration by the committee—H.R. 12972 and H.R. 10848. For the past year, the administration has been engaged in careful review of the social security-disability insurance (DI) program, including its relationship to disability benefits available under the supplemental security income program (SSI). Early in the next Congress we will be recommending changes in the disability insurance program as a result of that review. Our comments on the bills before you are made in the context of that examination of income benefit programs for the disabled. I do wish to note that we are conscious of the problems which these bills seek to address. Our differences with the proponents of this legislation are not on the concerns they recognize, but on the best ways to meet those concerns in long-range policy terms.

First, I will talk about H.R. 12972. The administration is strongly opposed to H.R. 12972. This bill would change the current test of disability in the SSI program and exempt certain work-related ex-

penses which are currently counted in determining eligibility for the program. SSI disability benefits are available to individuals who can give proof of an inability to work because of severe and long-lasting physical or mental impairment, as well as proof of low income. They are the counterpart in the SSI program to benefits payable under the old State programs for the permanently and totally disabled.

Under present law, disability is defined for both the SSI program—title XVI—and social security disability insurance—title II—as the inability to engage in substantial gainful activity (SGA) because of a physical or mental impairment which lasts, or is expected to last, at least 12 months or end in death. The Secretary is authorized under both titles II and XVI of the Social Security Act, to prescribe the dollar amount of earnings which demonstrates the ability to perform substantial work. Currently, individuals able to earn more than $240 per month are judged to be able to engage in substantial, gainful activity and therefore not disabled for purposes of receiving either SSI or disability insurance benefits. Thus, the levels at which the SGA is set is a fundamental part of the definition of who is, or who is not, disabled for purposes of these programs.

Under H.R. 12972, individuals applying for SSI because of their disability, would still have to give proof of the severity of their mental or physical impairment, but not of their inability to engage in remunerative employment as a result of that impairment. In that way, H.R. 12972 would change the basic definition of disability for the SSI program. By raising the SGA level to an amount equal to the earnings of many nondisabled individuals; it would effectively remove one part of the test of disability from the determination process.

The present SGA test of $240 per month is deliberately set at a point where it measures meaningful economic activity as distinguished from activity which is not economically relevant. H.R. 12972 would raise the SGA dollar level to a minimum $440 per month for a single person and $630 per month for a person with an eligible spouse. Individuals with high work-related expenses could earn substantially more than those amounts and still qualify for benefits.

One result in the changes contemplated in this bill would be to open the SSI program to people who are capable of self-support in spite of their impairment, and who are not, in the traditional sense, "totally disabled."

At earnings of $500 or more a month, the concept of "substantial gainful activity" as one test of disability becomes almost meaningless as a means of distinguishing the disabled from the nondisabled. In a society in which many nondisabled people earn only that much or less, it would be difficult to determine whether low earnings are the result of an impairment or of economic and social factors unrelated to physical or mental impairments.

Further, since the substantial gainful activity level for SSI would be different under this bill for a single person than for a person with an eligible spouse, it would appear to be a test of income rather than a

test of disability. That is, a single person would not be considered disabled with earnings of $500 per month, for example, while a married person with the same disability and an eligible spouse would be considered disabled with earnings of $500 per month. It appears inequitable to find one person disabled and another not for reasons entirely unrelated to medical conditions and the ability to work.

We are concerned that such a major change in the concept of disability for SSI is being proposed as a change in administrative interpretation of the statutory definition. It would appear contradictory and confusing to the public to have two different interpretations—one for SSI and one for disability insurance and the same definition—of disability.

Perhaps equally important, this bill could have a significant effect on the social security disability insurance program, whether or not the higher SGA level is carried over to that program.

We believe that there are considerable numbers of impaired people who are working and earning amounts over the present SGA level of $240 a month despite their impairments. These people are not likely to apply for either SSI or DI because, under the definition in current law, they are not disabled. In order to get benefits, they would have to reduce their earnings to $240 or less without the insurance that their impairments are severe enough for them to be found disabled. Financial risks entailed in applying for SSI or DI, under these circumstances, are very high.

However, if the SGA level for SSI were raised substantially, these individuals could apply for SSI and qualify for benefits without reducing their earnings at all. Once they are found disabled for SSI purposes and with the assurance of some income from the SSI, they could reduce their work activity to become eligible for the relatively higher benefits available under the social security disability insurance program. While these individuals would have to reduce their income to receive DI benefits, their SSI payments would be raised as their earnings dropped by—$1 of benefits for every $2 of earnings—and the impact of reducing their earnings would be considerably blunted.

There is no way to estimate with any precision just how many individuals might act in this way, or for how many the change in SSI might prompt a decision to apply for disability insurance, but we believe the numbers could become substantial over time.

In estimating the cost of H.R. 12972, it is thus necessary to speak in terms of ranges of possible costs, largely because it is impossible to know just how many individuals would change their level of work activity as a result of this bill. We estimate that the additional cost of this legislation to the SSI program would fall between $250 and $300 million in the first 5 years after enactment, with additional cost to the medicaid program of about $70 million to $100 million over the same period.

If work activity is reduced and individuals now outside the system altogether apply first for SSI, and then disability insurance, the cost to the disability insurance program would fall similarly in the range of $250 million to $350 million in the first 5 years, with a potential long-range cost to the disability insurance trust fund of between 0.03 and 0.07 percent of payroll.

It is possible that there would also be some cost to the hospital insurance trust fund because of increased disability insurance-related medicare usage in the first 5 years and a potential long-range cost to that trust fund of 0.01 percent of payroll.

H.R. 12972 also provides for the exclusion of work-related expenses and the cost of necessary attendant care for earned income under the SSI income test. These provisions, taken together with the increase in SGA earnings level for SSI recipients, could result in continued SSI eligibility for individuals with incomes in excess of $10,000. This is possible because the excluded expenses need only be work related and not just impairment related. Normal working expenses that the nondisabled are expected to pay for out of their earnings would, in effect, be subsidized for individuals who qualified for benefits on the basis of disability.

We recognize that there are highly motivated individuals with severe handicaps who want to work but who are discouraged from doing so by the present program structure. We think some carefully constructed program changes which accommodate their desire to work would be appropriate. These might be changes which enable the severely disabled to work without changing the basic concept of disability or opening the program to a whole new group of less severely impaired individuals.

It might, for example be desirable to exclude impairment-related work expenses from earnings of the disabled in determining conformance to the SGA levels. We are considering alternatives to accomplish this objective in our disability review.

The exclusion in H.R. 12972 would be in addition to the exclusions in current law of the first $65 plus one-half the remainder of earned income. We have serious reservations about enacting a program that would pay cash supplements that would be intended to replace pay income lost because of disability to people earning as much as $10,000 per year, however sympathetic we may be to the fact of their disability.

With regard to H.R. 10848, the administration does not support the enactment of this bill at this time. Under the bill, a person who had received either social security or SSI on the basis of disability, returned to work and then, within a period of 5 years found the need to apply for benefits once again, would be presumed eligible pending a final redetermination of disability.

We oppose piecemeal reform of the SSI disability program. We believe the entire area of work incentives and disincentives, not only in that program but also in title II, should be treated in an integrated fashion as part of the administration's forthcoming comprehensive proposal to improve income maintenance programs for the disabled.

I do wish to say that we understand and sympathize with the concerns which have prompted both these bills. The needs of severely disabled people are serious and deserve our most careful consideration. Moreover, we agree that we should encourage work activity on the part of even the most severely disabled individuals in our society. However, we do not believe that H.R. 12972, which is estimated to cost over $750 million over the next 5 years, is the best way to accomplish these ends. We will be sending proposals to the Congress early next

year to reform the disability insurance program. We strongly urge that you discourage action on proposals such as H.R. 12972—which we believe represents a major change in Federal policy toward the disabled—and H.R. 10848—until that time.

That concludes my prepared statement, Mr. Chairman.

Senator MOYNIHAN. Thank you so much, Mr. Wortman. Let me say that I am fully aware that this cannot be an easy task for you, to appear as you do in opposition to matters whose purposes you fully support.

Let me ask you a few general questions and then permit me to say that there is another vote on. In a few moments, I am going to turn into a pumpkin and go rolling down that road. I have a large number of questions which we would like to submit to you to answer for the record.[1]

Mr. WORTMAN. I would be glad to do that, Mr. Chairman.

Senator MOYNIHAN. I do not want to delay you while we go to the floor to vote on whether to recommit the President's natural gas proposal. It will not be an ordinary vote and I must leave shortly. If you were given new authority to conduct experiments concerning the establishment of work incentives for the disabled, as the recently reported House Social Security Subcommittee's bill would provide, could you make good use of this authority? Would you expect to coordinate these rehabilitation programs which seem to be running afoul of your regulations right now?

Mr. WORTMAN. Well, in terms of incentives and disincentives, we are running afoul not only of our regulations, but also of some of the basic concepts of the law, and I think yes, we would. One of the things that we have discussed with the Secretary in the course of his review is that same concept, and generally we have been favorably disposed to additional research and development authority in this whole area.

Senator MOYNIHAN. The questions that one of the things that has interested us a little bit is the different mix of the percentage of disabled adults who have, it seems to me, been denied SSI payments on the basis for a capacity for substantial gainful activity. This seems to have dropped off.

While the percentage denied because of the lack of severity in impairment has shown a corresponding increase. Do you have any sense of this, or am I talking nonsense to you?

Tom Staples does not have a ready view on that. I would prefer you to have this for the record.

Senator MOYNIHAN. I will put all of these statements in the record.

What has been our experience with the SSI programs? Have we not seen a significant increase in the number and proportion of the population that the Government records as disabled?

Mr. WORTMAN. Yes; that is correct.

Senator MOYNIHAN. What are the parameters, as people say, too often, when they do not know what the word means.

Mr. WORTMAN. Of course, we do not have knowledge nationally about the number—the universe, as the analysts would say, about the universe of disabled. That is very imprecise.

As you, in your committee responsibilities, are well aware, both the disability insurance program and the SSI program have shown a rather rapid growth in the number of people who have applied for disability and who have received benefits. In fact, when we took over

[1] See p. 74.

the program from the States, there were 1.3 million disabled people on the national benefit rolls.

Senator MOYNIHAN. On the ABTD.

Mr. WORTMAN. Right, and now, in total numbers, we are talking about 2.2 million people out of a total of 4.3 million people on SSI.

Senator MOYNIHAN. So, the numbers have not quite doubled.

Mr. STAPLES. It is about a two-thirds increase.

Senator MOYNIHAN. About a two-thirds increase.

Was there enough of a change in definition, from ABTD to SSI, that you can account for that as an artifact?

Mr. BONIN. No; that is quite an anomaly, Mr. Chairman, because the definition of disability under the Federal program is probably a little more restrictive than it was nationally under the ABTD program, so that does not account for it.

Mr. STAPLES. I could add one thing, Senator. We have the disabled children under the SSI program, which we——

Senator MOYNIHAN. May I ask—I am afraid that I will have to cut you short again. I dare not face the President as the vote that lost him his energy program. When we return, however, I would very much appreciate some speculation on your part as to what has happened to the rolls of the disabled. Senator Curtis had some questions he would like you to answer also.

Forgive me for my unintended abruptness.

Mr. WORTMAN. Do you want me to remain here, sir?

Senator MOYNIHAN. No, sir. You have half a day's work to finish, if I know you. I am sorry, but we will have to recess at this time, and we will return.

[A brief recess was taken.]

Senator MOYNIHAN. Well now, we resume our hearings and we now welcome a panel consisting of Mr. Robert Gorski of the Westside Community for Independent Living and Mr. Greg Sanders of the Center for Independent Living.

Gentlemen, we welcome you. You have statements which you can read, or you can introduce them into the record and summarize, as you like.

STATEMENT OF GREG SANDERS, CENTER FOR INDEPENDENT LIVING

Mr. GORSKI. Senator, my name is Robert Gorski and I am very thankful for the opportunity to be here and address you this afternoon.

Mr. SANDERS. And, as he said, I am Greg Sanders. I am from the Center for Independent Living. We do have prepared statements, which I will submit. However, this is an issue which I think we have been prepared to speak on for a number of years and we will speak without statements.

Senator MOYNIHAN. Right. Go right ahead.

Mr. SANDERS. Perhaps a clarification to begin with, both Robert and myself are from Independent Living projects in California. We should emphasize the national concern behind the disability disincentive, the employment barrier, as an emphasis of that. Some of my associates, whom I have spoken directly with some, others I have worked with

through the network, that would be—well, in Louisiana there is an association, International Place, which is for severely impaired individuals such as Robert and myself.

In Missouri, no relation, called Paraquad, and to explain that, it would be a paraplegic and a quadriplegic; in our own terms we commonly refer to ourselves as paras and quads and therefore we got the name Paraquad in Missouri.

We have been in communication with individuals in Alaska within the Arctic Circle, and I think it is impressive that legislation that passed the House of Representatives under a suspension of rules on August 31 has received attention from such distant places, and even from individuals in Guam and Puerto Rico within a matter of 6 to 8 weeks.

I think that is an indication of a national concern.

I think it is timely to respond to one statement by the Commissioner on a question of yours on "Would demonstration projects in isolated areas be relevant?" and our question is: "Where would you do it? Would you do it in Missouri? Would you do it in California? Would you do it to the retarded individuals in the bush schools in the Arctic Circle?"

We have difficulty with that concept of a demonstration project. In fairness to the national citizens and certainly it is not the nature of the U.S. Senate to focus for the benefit of a particular State.

We would like to see a national approach to this issue.

I certainly would like to add that, in terms of the rising number of disabled individuals in this country, which is a concern of a number of people, I am certainly disappointed in that. I am certainly not pleased that the disabled individuals are rising. Nonetheless, we are here. We are real. And, unfortunately, when it is time to take a vote, time to work, we cannot turn into pumpkins and disappear. We are going to have to be addressed. We are going to have to be recognized in society and we have needs that have to be met.

If we do not work, we cannot contribute, then we are going to have to be supported and be totally dependent.

Before going into H.R. 12972, we would briefly like to address Congressman Stark's bill, H.R. 10848 and, as a point of clarification on the bill, and some concerns.

The bill would only provide presumption of disabilities within the application period, but in the final adjudication of the case. Benefits can only be applicable, under current statutes, beginning in the month that an application was submitted. Therefore, there can never be retroactive benefits, say, if an individual applied now, the benefits could only begin in the month in which they submitted the application.

Senator MOYNIHAN. Right. I got you on that one. That was my confusion about the past tense.

Mr. SANDERS And there was a statement which said the bill would only be applicable in the case of medical deterioration—and certainly it would—but also it was suggested that the bill would be applicable as a quadraplegic, if I demonstrated the ability to work and then was if the company closed, and that is not correct.

If an individual lost their job for an economic reason, for instance, laid off from my job because of the, say, consequences of proposition

13, I would not be eligible to reapply unless I could provide proof, medical evidence, that I had a new disability indicating that I could not return to work.

Therefore, the Stark bill would only cover individuals who were required to return to the system due to a medical deterioration. Those individuals who were attempted to work and were forced——

Senator MOYNIHAN. And who made that judgment themselves, or did——

Mr. SANDERS. No; a voluntary resignation would not suffice. You could not become reeligible unless you provided medical proof that you were necessitated to return due to your medical condition.

The bill further provides that in the final adjudication if it was determined that the presumption of disability was incorrect, that, in fact, you should not have been entitled to benefits, that an overpayment is due and would be collected.

Senator MOYNIHAN. Well now, I am afraid that I do not fully understand. You say that you have to provide medical proof of your desire to return to the program. I would have thought that the purpose of the presumption of eligibility provision was to avoid having to prove——

Mr. SANDERS. The presumption of eligibility is to assure that someone does not starve to death or die due to lack of medical attention while their case is being evaluated for the first 3 or 6 months.

Senator MOYNIHAN. Oh, I see. You mean before the presumption is accepted permanently, there must be a medical determination.

Mr. SANDERS. Right.

Senator MOYNIHAN. Of course. That makes sense.

Mr. SANDERS. The presumption of disability would only create an immediate provision of benefits while the adjudication process was involved.

Senator MOYNIHAN. It is a rebuttable presumption, or whatever it is that lawyers say. In any event, I follow you exactly.

Mr. SANDERS. And then the individual, such as myself, who had pursued work activity would at least have the assurance that if we suffered a medical deterioration, the simple logistics of the program would not require admission to an institution pending the beginning of benefits. The benefits could begin immediately.

And certainly, if I had a medical deterioration, I would demand immediate medical attention. That clarification is provided in Congressman Stark's bill. We have elaborated more in our testimony and strongly support that.

Senator MOYNIHAN. All right.

Mr. SANDERS. Mr. Gorski and myself will jointly be speaking on the issue as we turn our focus on H.R. 12972 and Mr. Gorski will begin.

STATEMENT OF ROBERT GORSKI, WESTSIDE COMMUNITY FOR INDEPENDENT LIVING

Mr. GORSKI. Senator, the issue that we are really concerned about, and that brought us here to Washington, is that the employment dilemma that many physically disabled people and mentally retarded people who are recipients of SSI face when they consider job oppor-

tunities. I submit, Senator, that the desire among the disabled people to work is very great. It is very widespread and it is very strong.

Nevertheless, disabled and retarded people face the dilemma when they return to work of the possibility that the benefits of working will not equal the benefits of the programs for which they are terminated. Specifically they would be terminated from the SSI program which is an income maintenance program, and, of course, to that is linked eligibility for medicaid assistance and title XX social services.

Mr. SANDERS. To emphasize or to place the linkage of title XVI income maintenance to title XIX, health coverage, or title XX, social services, we will present two actual case examples. One, a woman in New York who was disabled at birth and has been confined to a wheelchair from childhood. After successful rehabilitation throughout—and I cannot underemphasize that, to a person disabled at birth and to attend school with nonimpaired individuals, the significance at the end of your education to achieve employment and demonstrating that you are, in fact, a peer with other individuals. She did get employment. Did demonstrate that she was employed as a social worker. She entirely reduced her income maintenance and began to reduce substantially her dependence, her medicaid coverage, and her personal assistance.

In the State of New York, personal assistance is provided under title XIX. If she would have resided in California, the personal attendance assistance would have been provided under title XX. Nevertheless, all three titles, XVI, XIX, and XX, are all dependent on the same definition of disability as applied in most States.

This particular individual had obtained the ability to provide for 70 to 80 percent of her own needs and was supplemented by the system for the additional 30 percent, she could have continued in her employment and her individual respect in life and, in terms of the taxpayer. a substantial savings. And yet, since she had those supplementations and she could not come up with the additional 30 percent, she was required to abandon employment completely, and therefore, the taxpayer was required to support her 100 percent.

On the second example, so that we do not focus attention soley on the physically impaired, a mentally retarded individual who, through job supervision provided by a program which was funded through title XX, social services, was able to engage in employment where he entirely eliminated his income maintenance and his health coverage grant. Unfortunately, as he is no longer legally disabled, the agency which provided the job supervision was not eligible to receive reimbursement for the funds provided for that job supervision. That individual, in the absence of the supervision, could not perform the job, lost the job—again, where the taxpayer was not required to provide anything other than job supervision, they then became responsible for that individual's income maintenance and health coverage.

As an additional irony to that particular case, the individual had demonstrated the ability to work, the ability to work in substantial gainful activity. When the job supervision ceased, it was not due to a deterioration of the individual's medical condition. His intelligence quotient had never changed. He was still and always defined as retarded. Nonetheless, he was not eligible to reapply through the system and therefore, in the process of seeking self-sufficiency—in this

case, almost complete self-support—he not only lost the opportunity to work but lost the basic services which he had in the beginning.

Senator MOYNIHAN. These are just woeful.

Mr. SANDERS. I respect your knowledge and awerness of the dilemma. I do not think it is necessary for us to focus particularly on more case examples. We do have that in the written testimony. It would be more useful of your time if we focused on the fiscal implications and our concerns with misunderstandings of the actual economics of this.

Senator MOYNIHAN. Right. Go right ahead.

Mr. SANDERS. The major concern, it appears to be, with H.R. 12972 is its potential to create new eligibles for the SSI program.

Senator MOYNIHAN. Right.

Mr. SANDERS. And I do not mean to be tedious, but first I must explain a basic structure in the program, that in the current regulations there is a listing of impairments and to be eligible, the individual who meets or equals that regulatory listing is considered to be unable to work. That is 70 percent of the 2.5 million disabled individuals on SSI.

The other 30 percent of the individuals are determined to be under a disability or not under a disability on the basis of a balance between their vocational potential and the severity of their impairment. The example presented in the statutes of such an individual would be a coal miner who has worked as a laborer for 35 to 40 years and, while he may have, or she may have, significant arthritis, the actual medical impairment does not meet or equal the language in the regulation, but the individual has nontransferable work skills and can no longer continue their current occupation and similarly has no transferable work skills or no rehabilitation potential to be retrained to accept any other job that exists in the national economy, then it could be determined that that individual is under a disability.

New eligibles would come from that third population, the individuals who do not currently meet or equal the medical listings of current disabilities.

There have been opinions that H.R. 12972 would allow hundreds of thousands of individuals with alleged backaches and headaches on the program. Two points on that.

First, in confidence of the Congressional Budget Office offset where they have analyzed their survey of low-income and disabled individuals, they have estimated that a maximum of 120,000 individuals would become potential new eligibles.

Senator MOYNIHAN. A maximum of 120,000.

Mr. SANDERS. Out of a program of 2.5 million.

Senator MOYNIHAN. So that is about a 5 percent——

Mr. SANDERS. Three percent. Three percent or less.

That is on the assumption of 100-percent participation.

Senator MOYNIHAN. Right.

Mr. SANDERS. I think we need to seriously consider the participation rate of that population. It has been suggested that an individual would be able to reduce their current level of employment and become eligible due to the vocational balance and medical severity, by intention, and that simply is not possible.

For the individual such as myself, if I demonstrate ability to perform substantial gainful activity, to return to the system, I would

have to indicate, through proven medical evidence, that I no longer have the ability to work. I simply do not see how an individual could voluntarily reduce their work activity to below whatever income level is identified as that which indicates substantial gainful activity and become eligible in the absence of medical evidence.

And if that is possible, then I do not see why H.R. 12972—well, the House bill—would create that vehicle. If that were possible it would be possible in the current system.

Mr. GORSKI. Senator, one of the components of the cost of H.R. 12972 is the additional cost to the medicaid program caused by new eligibles. The Congressional Budget Office, in their report on the bill, estimated that additional cost to be $30 million.

We disabled consumers disagree with that cost. We think it is overestimated, due to the fact that most of the new eligibles that would be captured by H.R. 12972 would be mildy disabled, therefore, their average medical cost would be below the average of those presently on the SSI system, which includes many severely disabled.

The CTO, when they did their estimate for the new eligibles, used the average of those presently eligible, and we feel that is a gross overestimate of the additional cost to the medicaid program.

Mr. SANDERS. As Mr. Gorski suggested, the CBO estimate includes individuals who meet or equal the listing of impairments and therefore, by definition, have a greater medical need. Certainly the individual with a lesser disability would not have the same medicaid usage as, say, a quadriplegic.

Senator MOYNIHAN. Oh, I follow you.

Mr. SANDERS. So we believe that the average medicaid usage for the new medicaid eligibles should be based on that 30 percent of the population which does not meet or equal the listed impairments.

In the area of work disregards, there is a difference of opinion between the Ways and Means Committee report and the Congressional Budget Office estimate and our understanding of the issue is that in the evaluation of the cost of allowing the income work disregard exclusion is that CBO, the Congressional Budget Office, through oversight, did not recognize that the initial $65 in the current statute, the initial $65 are already disregarded.

Of those disabled SSI recipients who are currently working, over 50 percent receive an average of under $60 a month. Therefore, they should not be figured into the cost estimate for the work disregard expense.

I think it would be easiest to simply say that page 22 of the Ways and Means Committee report addresses that argument. It suggests that the cost for the work disregard exclusion would be reduced from $56 million to $28 million. It's a very substantial difference.

I would also suggest that nature of the title XVI program is to insure a basic, minimum floor for indigent, aged, disabled, and blind individuals. It is to assure the ability to purchase food and shelter.

In the process of determining the ability to meet those needs, then of course you must operate under the assumption of net income and what must be paid for work expenses and is not available for rent or food, should not be considered in evaluation of a program that provides rent and food.

And perhaps another cost implication, and also a question of social judgment is that perhaps the most common work disregard would be

the payment of mandatory payroll deductions such as FICA contribution tax and income withholding tax. Those taxes, although they may represent a cost to the SSI program if they are disregarded, would be directly returned to the general revenues. There would be a circle-back effect and therefore the actual cost to the Government would be less than the full $28 million, if you followed the Ways and Means estimates.

In addition, the FICA tax contribution would go directly to the Title II Social Security Trust Fund as opposed to the general revenues from which the SSI disregard would be drawn from. In essence, it is simply a shifting of funds. I do not believe it represents—well, it must be considered in the evaluation of what the true cost to the Government as a whole is.

And a final comment on work expenses would be that failure to recognize the payment of taxes and to exclude those mandatory payroll deductions would, in essence, be double taxation. An individual would be required to pay the taxes and, simultaneously, an individual would receive a reduction in the SSI benefits for income that they never received, that they paid and contributed to Government.

Senator MOYNIHAN. I think that I follow that very well.

Well, gentlemen, that is a persuasive point and this has been a persuasive testimony. Let me ask you, does it trouble you that we might be broadening our definition to include so many of the mildly disabled people that we may dilute our efforts for the severely disabled.

Mr. SANDERS. It was brought up earlier on the program, why fewer individuals currently meet the listed impairments. That has gone down, as opposed to those who do not meet or equal the limited impairments, which has gone up.

The administration had no answer. I would consider the impact of our advanced medical technology on an initial injury. It is very feasible that many disabilities or injuries that would have been more severe now receive immediate attention, the disability could be lessened.

Also, individuals, in terms of the rising number of disabled individuals, medical technology has enabled individuals such as myself who could not, 10 years ago, expect a full lifetime to expect a very complete lifetime.

So I feel that individuals in terms of the population can possibly be explained through medical technology. I also feel that that third population, the population that does not meet or equal the listing of impairments is, by nature of the definition, older Americans, individuals between the ages of 45 and 64, and I have great concern for them.

I also have significant objection to the allegation or assumption that H.R. 12927 would affect the title II disability rolls and a point of clarification should be that this bill does not establish a new dollar level for the SGA for that—indicates substantial gainful activity. Quite the contrary, this bill revises the determination of disability to account for the current structure of the supplemental security income program which was not inherent in its predecessor, the title II program.

And, very simply, it establishes that a cessation of disability will occur not when you achieve a specific level of earnings, but when your earnings phase out your benefits to zero. As your earnings increase, you would follow the income disregard process, and eventually

your benefit level would be reduced to zero. At that point, you would be considered no longer legally disabled.

And while it would be common for an individual to, at $443 to phase out at that point, that there is nothing in the statutory language in H.R. 12972 that sets, or states in any manner, that his is the dollar level that indicates substantial gainful activity, and therefore there is no vehicle for litigation to assume that this must be applied to the title II program.

Also, I would have confidence in the Finance Committee to add declaratory language in the committee report that nothing in this bill could be construed to affect the title II program and I believe——

Senator MOYNIHAN. That is fair.

Mr. SANDERS [continuing]. That the U.S. Senate has the ability and the wisdom to establish the intent of which program it——

Senator MOYNIHAN. We have the authority.

Mr. SANDERS. I have confidence that you also have the wisdom, sir.

Mr. GORSKI. One of the important issues that was not addressed at all in the CBO cost estimate was cost offsets caused by H.R. 12972.

Senator MOYNIHAN. There are a lot of disabled people who are working, who are paid for it, and who are, therefore, contributing something of merit. Those are surely the great objects of all of these programs.

Mr. GORSKI. Of course.

Just briefly I will allude to case histories which are in my written testimony. I will not go into them, but in these case histories, in each of the case histories, the individual, by taking a job which H.R. 12972 is going to affect, would not only increase his net income, but would save the Government a considerable amount of money every year.

These are, of course, in addition, case histories of individuals who, under the present regulations, would not have taken jobs at all. That is, their income maintenance, their medicaid expenses and their title XX social services would have been totally the burden of the Government.

Senator MOYNIHAN. It makes perfect sense.

Gentlemen, we thank you very much. I must be respectful of our other witnesses. We have kept them waiting, as we kept you waiting. But you have been very generous, you have been very helpful. You have been precise and you have responded to the matters which concern us.

Mr. SANDERS. Senator, in a closing statement, I urge that well—as an example, I was not a black citizen so I could never imagine what it was like to be forced to sit in the back of a bus. I could understand their agony over that situation.

As unimpaired individuals, certainly you can never understand exactly what it means to be disabled. For those of us who are, we do know what it means. We would like the opportunity to work and we would like attention in this session, if at all possible.

Mr. GORSKI. Senator, I understand that next week President Carter has designated as Employment for the Handicapped Week. And one of the first events of that week, on Sunday, will be broadcast on CBS News' 60 Minutes a segment on the issue of work disincentives and the problems it has caused to physical handicapped and retarded people.

Senator MOYNIHAN. I am delighted. Certainly that will help us in our efforts to pass a bill.

Thank you both very much. You have been very generous and very helpful witnesses.

And now we are going to hear Mr. Gerald Parker. Mr. Parker, are you still here?

[The prepared statement of the preceding panel follow:]

STATEMENT OF GREG SANDERS, CENTER FOR INDEPENDENT LIVING, DISABILITY LAW RESOURCE CENTER, CALIFORNIA COALITION OF PERSONS WITH DISABILITIES, PHYSICALLY DISABLED STUDENTS PROGRAM, UNIVERSITY OF CALIFORNIA; HALE ZUKAS, CENTER FOR INDEPENDENT LIVING, CALIFORNIA COALITION OF PERSONS WITH DISABILITIES, CALIFORNIA ASSOCIATION OF THE PHYSICALLY HANDICAPPED; KAREN PARKER, SAN FRANCISCO STATE UNIVERSITY, EMPLOYMENT STUDIES PROGRAM, CALIFORNIA ASSOCIATION OF THE PHYSICALLY HANDICAPPED, NORTHERN CALIFORNIA COALITION FOR FULL-EMPLOYMENT CENTER FOR INDEPENDENT LIVING HUMAN RESOURCES CORPORATION; DENISE DARENSBOURG, SAN FRANCISCO INDEPENDENT LIVING PROJECT, PROGRAM FOR MENTALLY RETARDED

My name is Greg Sanders. With me today are Hale Zukas, Denise Darensbourg, Karen Parker, Robert Gorski and other disabled individuals. We are here representing disabled individuals and organizations from all over the country who have expressed overwhelming concern for the issues before the Subcommittee today. Indeed, the disabled nationwide consider H.R. 12972 and H.R. 10848 to be the most important pieces of legislation addressing their concerns before this Congress.

In ever increasing numbers, disabled individuals are becoming involved, at great personal sacrifice, in efforts to insure basic human rights, equal access to employment, supportive services, transportation and independent living. One of the overwhelming reasons for these efforts is the desire to reduce dependency on public monies and to participate in American life. We feel the members of this subcommittee as well as all members of Congress should recognize this goal and see our efforts here today and at other public forms in this light. For far too long the disabled have been living under the stigma of being costly burdens in our society and under the social expectation that their needs can be addressed by custodial care and public and private charity. It is ironic that it is the disabled themselves, rather than fiscally concerned taxpayers and legislators that have provided the impetus to reducing their own dependency on the taxpayers monies.

During the hearings conducted by the Special Welfare Reform Subcommittee on the President's welfare reform proposal (H.R. 9030) extensive testimony was prepared and delivered by severely disabled individuals stressing their strong desire to seek and be able to accept employment. In the discussion of H.R. 2972 on the floor of the House of Representatives on August 1, 1978, Mr. Vander Jact stated:

As our Welfare Reform subcommittee moved around the country this was the No. 1 concern expressed to us by the permanently disabled people. They want their work efforts—and sometimes they are heroic efforts—not to be penalized by HEW regulations which amount to a blanket rule that says, we know you are not disabled, despite their permanent, and in many cases agonizing disability, that is apparent to anyone who would just open up his eyes and see.

Prior to 1974 there was a higher percentage of rehabilitated disabled individuals entering the work force. The percentage of rehabilitated or job able disabled has since declined despite the success of the rehabilitation process and the development of the consumer-based independent living programs to provide effective services for even the most severely disabled members of our society. At the same time, ever increasing numbers of disabled individuals are seeking rehabilitation services and entering independent living programs because of a sincere desire to become as self-sufficient as possible and to be able to equal participants in American society.

The failure of significant numbers of disabled individuals who desire to enter the work force from doing so, cannot be explained merely by consideration of the high unemployment rate of all Americans in the last several years, although that may be a contributing factor. High unemployment rates would, of course, present significant problems in job security because disabled workers are likely to be the last hired and therefore the first fired in work slow-downs resutling in lay-offs.

Additionally, the failure of disabled job seekers to enter the job market cannot be fully explained by employer discrimination, although that problem is certainly a contributing factor. It is interesting to note that there have not been the anticipated large numbers of discrimination cases filed on behalf of disabled job applicants under Section 503 of the Rehabilitation Act of 1972 administered by the Department of Labor's Office of Civil Rights.

Congress, in addressing the concerns expressed by disabled individuals has already taken significant steps to acknowledge its responsibility to assure that all Americans be afforded the opportunities to participate in and contribute to American society by working. Congress has specifically addressed the special problems of disabled individuals who desire to work by passage of the Rehabilitation Act incluuding the strong affirmative action and non-discrimination sections in Title V of that Act, by special consideration of the disabled in the CETA programs, by recognition of the disabled as a target group in the Humphrey-Hawkins bill and by providing an additional nonincremental tax credit equal to 10% of the first $4,200 of FUTA wages paid to handicapped individuals as part of the Tax Reduction and Simplification Act of 1977. (There are several new proposals for special credits for disabled individuals currently under consideration in amendments to that Act.)

A major reason that disabled are not entering the job market although they have clearly demonstrated an ability to and desire to do so has been the technical barriers inherent in the Social Security Act and Regulations in Title XVI which make it economically suicidal to work unless a disabled individual is able to enter the job market at a substantial salary level. (For the severely disabled, the salary level would, in some cases, have to be in excess of $20,000 a year to make employment economically feasible.) For instance, in California, a disabled SSI recipient who is unemployed receives an income maintenance benefit (a combination of the Federal Grant and the State Supplement) of $307 per month. In addition, disabled individuals who require personal care and homemaker chore services (referred to as In-Home Supportive Services) can receive up to $621 per month for these services based on individual need. Finally, SSI recipients receive Medicaid assistance to meet medical and equipment needs. With the ever rising costs for these services (which are beyond the control of disabled individuals) the costs can be substantial. For example, urinary appliances for a spinal cord injured paraplegic or quadraplegic cost on the average $100.00 per month. Wheelchair repair and maintenance expenses can average $70.00 per month. Average Medicaid costs for all SSI recipients are currently $450 per year, although quite obviously the costs are substantially higher for some severely disabled recipients. Regulations that refer to gross earnings of $240 per month as Substantial Gainful Activity for individuals whose basic survival need are considerably higher illustrates gross misunderstanding of the population served under the SSI program, in particular, the substantially impaired individuals who previously could be expected to be maintained in institutional facilities at costs approaching $30,000 per year per individual.

These individuals, though model programs such as the independent living programs in California have shown that not only can they live independently at enormous taxpayer savings but they are capable of substantially reducing their dependency on income maintenance and other support through employment.

Disabled workers who do attempt employment, traditionally enter the job market at the lowest paying jobs. Sar Levitan and Robert Taggert, in their book "Jobs for the Disabled" (Johns Hopkins Press, 1976) provide extensive data on the wages earned by disabled workers. Disabled workers represent the lowest income levels of all workers. Of these, disabled workers of ethnic minorities are the lowest of all. A disabled man of prime working age who is employed earns 54% of what a non disabled man would earn. A disabled woman of an ethnic minority earns about 15% of what a non-disabled man would earn. Given the median income of even the wealthiest states, disabled individuals with basic survival costs have little or no chance of meeting their basic needs at the end of the 9 month trial work period, yet they could substantially reduce their income maintenance grant. As they continue in the work force and begin to earn more, they could begin to provide an ever increasingly contribution to their daily living costs.

Mr. O'Brien, speaking also on the floor of the House of Representatives during the floor discussion of H.R. 12972 commented on the numerous pieces of legislation with intent to assist disabled individuals who are seeking employment and pointed out that "(a)t the same time that the Federal Government has been at-

tempting to employ handicapped individuals, the Federal Government has implemented rules and regulations that act as a disincentive to individuals who want to word."

There have been arguments that the issue of work disincentives in the Title XVI program (SSI) should be addressed in comprehensive welfare reform legislation. However, disabled individuals and organizations representing their concerns have felt that the gross injustices of the current SSI dilemma need immediate attention. The feeling was apparent in the decisive House action when disabled individuals apprised the members of the devastating effect current regulation has had on their struggle to achieve maximum self-sufficiency and social acceptance. Mr. Vander Jagt, in further comments in the House debate countered the suggestion that this issue wait for the welfare reform package by stating:

My objection with that approach is that since welfare reform is delayed for one or two or who knows how many years, this particular segment of the population that so desperately needs a solution to its problem would just have to wait simply because we here in Washington cannot get our act together. I think we can rifleshot to them the help that they deserve, that they need, and that will make them more productive members of society right now and not wait for a comprehensive solution that who knows when will come.

H.R. 12972 provides an essential remedy for the programmatic dilemma created by misconceptions of the needs of disabled SSI recipients and would allow such individuals to accept employment they so fervently desire. As we consider the social implications of allowing disabled citizens the opportunity to work so obvious, we will stress fiscal considerations and concerns regarding possible Title II SSDI implications in our testimony.

ESTIMATE OF NEW SSI ELIGIBLES CREATED BY RAISING THE SGA LEVEL TO THE FEDERAL PHASE-OUT POINT AND COST-OFFSET FACTORS

Current regulations present a specific listing of medical impairments. Applicants who provide medical evidence that their impairment(s) equal the listed impairments or are of equivalent medical severity to the listed impairments are presumed to be unable to perform SGA in the absence of evidence to the contrary (i.e., the individual is not substantially employed or has not been substantially employed after the onset of the impairments). Approximately 70% of the diabled SSI recipients do meet or equal the listed impairments. (As a point of clarification, a recipient who does not meet the listed impairments is not considered to be under a disability if he or she demonstrates the ability to engage in SGA after the completion of a brief nine month trial work period. A post-polio quadriplegic, for example, would have a technical cessation of his or her disability if he or she demonstrated the ability to have earnings of $240 a month.)

A finding that an applicant is under a disability is possible when their impairment(s) do not meet or equal the listed impairments. In such cases the disability determination is based on the balance of vocational ability and medical severity. The vocational considerations are very rigid. The general example of such a case presented in the Social Security Act is that of a coal miner who has worked as a laborer for 35 to 40 years and can provide medical evidence that he or she is unable to continue their occupation. Additionally, the individual must present medical evidence that he or she has no transferable work skills and cannot perform any other job which exists in the national economy. The approximately 30% of the disabled SSI recipients who qualify through this process are, by nature of the definition, older Americans.

It has been alleged by some that H.R. 12972 may allow "Hundreds of thousands of individuals with back pains and headaches" onto the the SSI program. Such assertions ignore the clear historical intent of the Act to emphasize medical evidence in the finding of a disability. Under current disability determination test, an individual with a complete amputation of a single limb is not considered to be under a disability unless other medically proven impairments exist. By comparison, it is inconceivable that the allegation of back pain or headaches could satisfy the medical requirement. The statutes clearly state that medical evidence must exist, thus, claims of severe headaches, and physician's opinions are entirely meaningless unless substantiated by X-rays or similar objective medical evidence indicating for example the existence of a specific impairment such as a tumor.

Moreover, as an individual with great respect for Congress, I have complete confidence in the wisdom and authority of the United States Senate to provide in

the Finance Committee Report declaratory language explicitly establishing that H.R. 12972 is not to be construed as liberalizing in any manner the existing emphasis of proven medical impairments as the dominant factor in the finding of a disability.

In the ability of Congress to prevent abuse of the disability determination process through the use of declaratory language aside, the allegations that extraordinary numbers of SSI eligibles will be created by increasing the SGA level to the Federal phaseout point are not borne out by the CBO estimate of potential new eligibles. CBO has estimated a maximum of 120,000 new eligibles. Of this estimate it can certainly be assumed that there will not be 100% participation. Factors which indicate a low participation rate include, but are not limited to:

(a) The rigid resource limitations for SSI eligibility would require individuals currently able to earn $240 a month, but less than $443 a month, to reduce these assets to below $1,500;

(b) the deeming process inherent in the SSI program would require the family to reduce resources below $2,250 as individual family members cannot apply independently; and

(c) individuals currently able to earn $240 a month would be forced to accept the stigma of a welfare recipient for a minimal grant.

The CBO cost estimate for increasing the SBA level to the Federal phase-out point deserves examination for other reasons as well.

1. CBO assumed the new eligibles woud be average Medicaid users. In fact, the new eligibles would be individuals who do not meet or equal the listed impairments. They would become eligible due to adjustment of the vocational considerations. The cost estimate for Medicaid use by the new eligibles should, therefore, be based on the average Medicaid usage for the 30% of the disabled SSI recipients who do not meet or equal the listed impairments instead of the average Medicaid usage for all disabled SSI recipients. It simply is not logical to assume that the individuals who qualify on the basis of vocational factors balanced with limited impairments will demand the same medical usage as individuals who meet or equal the listed impairments (spinal cord injuries, terminal cancer patients, etc.)

2. The cost estimate for the work expense disregard is questionable. As explained on Page 22 of the Ways and Means Committee Report (House Report #95-1345), CBO did not consider the initial $65 a month earned income exclusion in current law. Revising the CBO estimate to include this factor the Committee Report estimates the cost of the work expense disregard to be reduced from $5C million to $28 million. Also, it must be recognized that the most common work expense disregard is mandatory payroll deductions such as FICA contributions and income tax withholdings. While a disregard for these expenses may represent a cost to the SSI program, the cost is directly returned to the general revenues or Social Security Trust Fund. As such, there is no real cost for this dominant factor in the provision of a work expense disregard. Furthermore, collecting the taxes and concurrently reducing SSI benefits on the basis of gross income is, in essence, double taxation.

3. Although the cost estimate for new eligibles is based on the distinction of a current ability to earn more than $240 a month and less than $443 a month, CBO indicates no savings offset which will occur due to limited benefits. It is necessary to emphasize that the earned income disregard applies a 50% reduction rate to earnings in excess of $65 a month. Earnings between the current SGA level and the proposed Federal phase-out of $443 are subject to this reduction in benefits. Since the new eligibles have the ability to earn in excess of $240 a month, a corresponding low income maintenance benefits should be assumed.

4. The most serious deficiency of all of the CBO estimate is the failure to take notice of the substantial savings that will result from reductions in SSI benefits to present recipients who are able to attain employment because of H.R. 12972. The analyst who developed the CBO estimate has stated that the absence of a cost estimate for the savings in reduced benefits is not an oversight and, absolutely, should not be interpreted as an assumption that CBO does not anticipate a savings. Appropriately, CBO presented no estimate of the savings due to a complete lack of data which would support a responsible estimate. The failure of the Social Security Administration and the Department of Health, Education and Welfare to collect such data is, in itself, a clear indication that they perceive this program from a custodial perspective and not one which would support a disabled individual's efforts towards self-sufficiency.

A final point on the work expense disregard is, perhaps, more significant to the administration than the consumers. A major objective of the administration is to create similarities in administrative processes where they are logical and effective. Creating identical income treatment for all SSI recipients is certainly a cost effective action within the perspective of program operation. In the particular case of work expense disregards equal treatment of all SSI recipients as it will create the work expenses disregard for the disabled as current law treats the blind.

Since this testimony is being provided by representatives of the mentally and physically impaired, it is significant to emphasize a fundamental policy objective. It is our educated opinion that the recipients of SSI have the ability and desire to reduce their dependency on the taxpayer. Just as we are adamant about the potential and the fundamental rights of the disabled SSI recipient, we are equally concerned about those SSI recipients classified as aged. The new perception of independent living and full social ingration of the disabled lead to the decisive 399 to 4 vote on H.R. 12972 in the House of Representatives. This intelligent approach to the domestic demands of our American society must continue into the 96th Congress and assure that effective and appropriate employment opportunities are extended to aged.

TITLE XVI SSI INCOME MAINTENANCE VS. TITLE II SOCIAL SECURITY DISABILITY INSURANCE

The implementation of Title XVI of the Social Security Act, SSI, in 1974 established a Federal floor for the income maintenance of the indigent aged, blind and disabled. Inherent in the eligibility requirements for such a program targeted at the financially needy are income and asset limitations. H.R. 12972 does not establish a precedent for the determination of disability or for the earnings which demonstrate substantial gainful activity in any manner beyond the parameters of the SSI program. Although general discussion commonly refers to H.R. 12972 as establishing the SGA level at $443 a month, in fact, the legislation does not identify a specific SGA level. The actual language of H.R. 12972 simply establishes that for the SSI program, which contains a process for determining financial need, the cessation of disability will occur at the point a financial need (after consideration no longer exists for work related expenses and necessary attendant care). It is correct that earned income of $443 a month will reduce the SSI benefit to $0. Thus, $443 indicates SGA only as a function of the income determination process. In no manner does the language of H.R. 12972 state a specific dollar amount (i.e. $443) which indicates SGA. Presenting the qualification that a disability cannot be ceased due to earnings unless the earnings exceed the amount of benefits which would be payable after applying the income disregards (if any) is the appropriate approach to minimizing the employment disincentive for the indigent disabled recipient of Title XVI (SSI). The approach demonstrates the intent of the House of Representatives that H.R. 12972 cannot be construed to effect the Title II disability insurance program. As the mentally retarded representative of our panel has astutely recognized, the statutory language of H.R. 12972 cannot be applied to a program which has no means test. Unless Congress enacts a comprehensive reform of the Title II disability program, H.R. 12972 cannot establish a statutory precedent which will remove the secretary's current authority to establish the earnings level which indicates SGA for the obvious reason that the Title II disability program has no means test.

Given that H.R. 12972 does not provide a vehicle for mandated reform of Title II through litigation, it is the position of this Consumer Panel that there should be assurances that H.R. 12972 is not interpreted as a policy to be carried beyond programs based on financial need which, of course, contain a specific means test. It is our understanding that members of the Finance Committee will place declaratory language in the Finance Committee Report establishing that H.R. 12972 cannot be construed to effect the Title II disability program. We strongly support such action and applaud the foresight of these members.

It is the experienced opinion of this Consumer Panel that very substantial numbers of current disabled SSI recipients not only desire to achieve maximum self sufficiency, but also that they will be successful. None the less, our intimate understanding of disability includes the awareness that medical complications do occur. Under current law an individual who has demonstrated the ability to engage in substantial gainful activity cannot become re-eligible for SSI unless he or she can provide medical evidence that he or she lost the ability to engage

in SGA due to medical reasons. Specifically, the disability has worsened or there is a new disability. A SSI recipient who leaves the disability roles due to performance of SGA cannot become re-eligible for SSI if he or she lost employment due to economic factors or voluntarily resignation. Such an individual can only become re-eligible if he or she was required to stop their employment due to medical reasons.

H.R. 10848 does not change this criteria and, accordingly, will not create new SSI eligibles. The impact of H.R. 10848 serves to encourage current recipients to attempt substantial gainful activity as it reduces the risk of unavoidable institutionalization. In the event of a medical deterioration, basic life support benefits such as SSI and those linked to SSI (Medicaid and Title XX services) must be immediately available. In the absence of a presumption of disability, the weeks or months required to establish eligibility are, from the human perspective, weeks or months without food, shelter or medical attention.

From the administrative perspective, if the final adjudication of the application determines that a presumption of disability was inappropriate, H.R. 10848 requires that the benefits provided shall be considered as an overpayment and collected. We strongly encourage passage of this legislation by the 95th Congress as it is an essential component in the elimination of employment disincentives for the disabled SSI recipient.

Although testimony has focused on H.R. 12972 and H.R. 10848 our testimony before this hearing should not imply that S. 2505 is not a major concern of the disabled. As consumers, we have presented extreme concern that the employment barrier of the SGA test must be removed for SSI recipients. We recognize, and urge the Senate to recognize, that H.R. 12972 does not address exceptional health cost. S. 2505 can clearly be the vehicle to solve this critical concern. We look forward to working with Senator Javits, Senator Dole and the other coauthors of S. 2505 to enact legislation with appropriate language to assure that the exceptional medical costs of employed disabled individuals are protected.

We need to reassess who we are, where we are, and where we are going. We must stop mistaking rhetoric for reason, the appearance of motion for progress, and activity for achivement. You have an opportunity to provide truly meaningful legislation—both for the taxpayer who has been forced to pay the costs of maintaining disabled members of our society and for disabled individuals who yearn to contribute.

We urge you to act promptly and decisively in support of these issues—not because of what you can do for the disabled individuals but because you recognize the valuable contribution disabled individuals can make for all Americans.

STATEMENT OF DENISE DARENSBOURG

My name is Denise Darenbourg, and I represent the retarded, urging you to help me help the retarded and all disabled persons. Realizing what a job really means to them, not only for the moneys but to gain encouragement and independence to learn about the community. A friend of mine had just gotten a job that paid him more than his own benefits and he was really glad that he was no longer an S.S.I. recipient, cause he had always wanted a job. Not many are as lucky as my friend. Because someday I would like to support myself. But now I couldn't possibly afford to. I also don't think it's fair to want to work and know that we can be allowed only $240.00, S.G.A. a month. What if I were making $240.00 a month, a. I would have less monthly income than now. b. I would lose my attendant. c. lose my medical aid and d. End up in an institution.

Also, if my friends worked and earned $240.00, they would lose and be cut off of medicaid and be institutionalized. And if somebody were to get training for a job of some sort and the trainee knowing that this person wouldn't be eligible would be another loss. I just feel that the retarded along with other disabilities should be given a chance. Because we can work and want to. Social Security Income program I feel is at least most of the time full of bull crap. The disabled would probably handle things better if they ran the program. I just think the disabled should be given a chance, its also very hard to see how much trouble it would cause. Because I want to see my friends succeed. Because we're all equal and if we don't get what we want, then we'll fight for it, if you can recall our 504 demonstration last year. So we hope your taking full consideration into what you're really doing. Thank you very much.

Statement of Hale Zukas

My current benefits amount to $183 in SSI, $548 in Attendant care, and about $70 in wheelchair maintenance costs covered under Medicaid, for a total of approximately $800 a month. If I were to take a job paying less than $15,000/yr, then, I would be losing money.

Even if I found a job whose salary level at least matched my present benefits, I would be faced with what to my mind is an even more important issue—is the job secure enough that it is safe for me to forego the lifetime security of my present benefits? Remember, once I perform SGA for nine months, I would be classified as no longer disabled and thus ineligible for SSI and the supportive services I now receive. I would again become eligible for these benefits only if my physical condition deterioted substantially. Since my disability is completely stable, the likelihood of this happening is probably less than it is for most of the people in this room. (H.R. 10848 would, therefore, not provide remedy for me.)

Should I lose this hypothetical job for any reason, then, I would be in an extremely precarious position. Locating another suitable job would be a very long and difficult process for me, as you can imagine. In the meantime I would lack the wherewithal to pay for the supportive services I depend on to live. Which would come first—finding another job or institutionalization—is very much open to question.

In sum, under the present system I, along with thousands of other disabled people, am faced with a yawning chasm which I must leap at a single bound if I am to become self-sufficient. You either make it or you don't; if you don't, the consequences can be disasterous. By raising the SGA level and excluding attendent care (this is particularly important in my case) and work-related expenses from countable income, H.R. 12072 would do much to eliminate this chasm and with it a major barrier to at least partial self-sufficiency.

Lynn Thompson was in her mid-twenties, had muscular dystrophy and was permanently paralyzed from the neck down, although she had limited use of one hand. Her condition necessitated 24 hour attendant care in her own apartment to maintain independence outside of an institution. She received $296.00 a month from SSI, $525.00 a month for her 24-hour attendant care, and Medicaid for her extensive medical problems. She began doing telephone dispatching for a hospital supply store starting at $10.00 a week and slowly over several years increased her earnings to $492.00 a month. Social Security, in reviewing her case, found that she was committing Substantial Gainful Activity (SGA) and told her she would lose her SSI of $296.00, her Medicaid for hospital bills and medication and demanded a repayment of $10,000.00. After protesting that she could not pay for her living expenses, her attendant care, her medical expenses and the $10,000.00 on the $492.00 she was able to earn, and faced with going into an institution as the only alternative offered her, she committed suicide.

Although Lynn Thompson's case is dramatic in that she left an explicit tape recording explaining her dilemma and the reason for her choosen solution, she must not be considered exceptional among the 2.5 million disabled Americans. She is symbolic of how the attempt to reach out for social participation and basic human dignity is met with callous disregard for individual citizens. Current data shows that the leading cause of death among paraplegics which formerly was a result of medical complications is now suicide.

As a reflection that this is of the utmost concern to American society, the dilemma of Lynn Thompson and similar individuals will be televised in early October in a special presentation on CBS's Sixty Minutes.

Statement of Robert Gorski, Westside Community for Independent Living, Inc.

The attached case histories are not isolated incidents but representative illustrations. They show the predicament disabled and mentally retarded SSI recipients face when they work or consider specific job opportunities. The case histories also indicate the advantages to the representative SSI recipients and to the federal government if the provisions of H.R. 12972 were in effect. The case histories readily show that the current definition of Substantial Gainful Activity discourages the disabled from entering the work force and causes the government to make needless benefit payments.

HEW administrators have made philosophical and programmatic objections to changing Title XVI's Substantial Gainful Activity. These objections are without foundation:

I. In an August 1 letter to Speaker O'Neill, Secretary Califano makes four points which I will address.

1. "altering SGA to accommodate the special work costs of the disabled changes the nature of the program."

Now, the raise in SGA, per se, to the "slide-off" point does not accommodate the special work costs of the disabled. Instead, such accommodation is provided by the work disregards provision of H.R. 12972. Since work disregards are presently extended to blind SSI recipients, H.R. 12972 does not change the nature of the SSI program, unless the nature of the program is to treat blind recipients more favorably than disabled. By his statement Mr. Califano implies that the nature of the SSI program should be the retention of disabled and mentally retarded recipients. This is certainly not consistent with the intent of the law.

2. "New eligibles will be handicapped who are not already working."

Working and receiving SSI are not mutually exclusive. In fact, existing regulations allow for and even encourage this through the provisions for earned income exclusion, spend down formula, and Plans for Self-Support. Currently 3% of SSI recipients work. Perhaps the objection is the idea of recipients earning above the current SGA limit. Nevertheless, many blind recipients earn above the SGA limit ($240 a month). In December 1976, 41% of the blind recipients working earned above $240. In fact, their average earnings were $262.

3. "New eligibles could earn as much as $900 a month." Under the House bill two types of eligibles will have the opportunity to earn this income. First, present eligibles, as indicated specifically in Examples #1 and #4 in attached case histories. Please note the gain to the government in Examples #1 is $186. In example #4 the gain is $625. Moreover, these two persons are well on their way to total self-sufficiency.

Second, new eligibles. The fact that individuals in Examples #1 and #4 would not under present regulations accept the $10,000 and the $12,000 jobs shows that few such potential new eligibles exist. Moreover, those that do exist survive most likely by supplementing their wage with unearned income, accumulated resources, or the income of a working spouse. The existence of these supplements would render these new applicants ineligible.

With both types of eligibles a large portion, at least $200 (slightly more than the maximum SSI payment), of the eligible's $900 a month income would be used for disability related expenses. Both new and present eligibles earning $900 a month would also be returning tax money to the government. Finally, both would generally receive only a small portion of the maximum SSI support. The individual in Example #1 would receive only $2 of SSI.

4. "35% of disabled SSI recipients also receive Title II money. Different SGA's for the two programs is inconsistent and would generate pressure to make Title II's SGA the same as Title XVI's."

HEW has historically shown incredibly fortitude in resisting changes in benefits programs. We can all assume that this record will probably continue.

Title II and Title XVI are already different philosophically, conceptually, and in numerous ways operationally. (See Attachments, page 9) In fact, H.R. 12972 compensates for a distinct disadvantage SSI recipients have compared to those receiving Title II: in Title II there is no spend down formula for earnings below the SGA limit. Additionally, H.R. 12972 redresses a glaring inconsistency presently in the SSI regulations. This is the fact that blind recipients are allowed work disregards while the physically disabled and the mentally retarded are not

In the case of people receiving both II and XVI benefits, H.R. 12972 will cause a savings for the Title II Trust Fund because when individuals earn above $240, they will terminate Title II benefits. Furthermore, their vocational rehabilitation costs will no longer be borne by Title II.

Finally, in his August 1 letter Mr. Califano announces an upcoming proposal to revise the Title II program. Apparently, he is not bothered by revising one of the two programs at a time when that action originates from his domain. Furthermore, I submit that by his own words Mr. Califano admits to a major programmatic distinction between Titles II and XVI and finds that distinction tolerable.

II. In a February 3 memo to Eve Helgenburg, Executive Secretary Ray Bonin said regarding increasing Title XVI's SGA:

"It is awkward for SSI—a non-contributory program—to have a higher SGA than Title II—a contributory program."

Nevertheless, Mr. Bonin fails to acknowledge circumstances which are much more pertinent. First, the many differences between Title II and Title XVI make them distinctly different programs. Second, a higher SGA for Title XVI will not increase the dissimilarity between the two programs. In fact, a higher SGA for XVI will compensate for the absence of a spend down formula II. Finally, a higher SGA in XVI will allow more disabled and retarded recipients to work and thereby contribute to the Title II Trust Fund.

III. The administration also objects to H.R. 12972 because of fiscal cost, as described by the Congressional Budget Office. Yet, the CBO estimates are clearly unrealistic. First, CBO fails to mention cost offsets, the taxes and reduced SSI payments, that H.R. 12972 will produce. The attached case histories show this savings will be considerable.

Second, additional medicaid costs are over estimated. Most new eligibles will be mildly disabled and not require medical attention equal in cost to the average for those presently eligible, which includes many severely disabled with high medical needs.

Third, the cost of work disregards is over estimated. Most new eligibles will be mildly disabled people with little or no disability related work equipment needs and attendant care. We should not expect that they will require work disregards equal to the blind. Now, CBO refuses to estimate the cost offsets of H.R. 12972 based on the cost offsets of the blind. The number of blind recipients working, says CBO, is too small to yield a justifiable figure. Yet this population was used by CBO to estimate the cost of work disregards for the new disabled eligibles under H.R. 12972. CBO's cost analysis is seriously inconsistent, and, I submit, CBO has invalidated its cost estimate of work disregards.

CASE HISTORIES FOR INDIVIDUALS RECEIVING SSI AND WHO WORK OR CONSIDERED WORKING—A COMPARISON OF CONSEQUENCES UNDER PRESENT SSI REGULATION AND REVISED REGULATIONS PROPOSED BY H.R. 12972

By Robert Gorski

Example No. 1:

"R. C." is male, paraplegic, age 22, uses manual wheelchair.

R. C. has a job opportunity in the CETA Title VI program paying $833 a month. Taking this job would require R. C. to expend $90 a month for transportation to and from the job site.

Under present regulations:

If R. C. takes job, after one year he will be terminated from SSI and medicaid benefits entirely. At that time his net gain is:

Salary	$833
Lost SSI	−190
	643
Transportation to and from work	−90
	553
Mandatory taxes	−96
Net gain	457

R. C. gains $457.

The government saves $190 in reduced SSI and gains $96 in taxes.

But if R. C. is unable to find permanent work after CETA VI job is finished, R. C. cannot resume SSI and medicaid benefits—R. C. refuses the job opportunity.

Example No. 1—Continued:

Under H.R. 12972:

If R.C. takes job, his work related disregards will allow him to retain $2 a month of SSI. He will also maintain medicaid eligibility. In this situation R.C.'s net gain:

Salary	$833
Remaining SSI	+2
	835
Lost SSI	−188
	647
Transportation to and from work	−90
	557
Taxes	−96
Net gain	461

1. R.C. gains $461.
2. The government saves $188 in reduced SSI and gains $96 in taxes. The total net savings for the government is $284.
3. If R.C. cannot find employment after finishing the CETA Title VI job, R.C. can resume full SSI and medicaid benefits.

R.C. takes the job.

Example No. 2:

"C.R." is female, age 31, single, no college education and has a birth defect requiring use of manual wheelchair, home attendant care worth $120, and disability related medical and prosthetic costs worth $75 a month.

C.R. has no previous and significant work experience. The Dept. of Rehabilitation is not interested in her as a client and will not assist C.R. to go through training programs or college.

C.R. has a job opportunity, part-time, paying $400 a month. The job is screening attendant care applicants and counseling disabled people how to hire and train their attendants. Taking this job would require C.R. to expend $16 a month for transportation to and from work.

Under present regulations:

If C.R. takes job, after one year she will be terminated from SSI, medicaid, and attendant care programs. At that time her net gain is:

Salary	$400
Attendant care at home	—120
	280
Transportation to and from work	—16
	264
Disability related medical and prosthetic costs	—75
	189
Mandatory taxes	—45
	144
Lost SSI	—190
Net gain	—46

Of course, C.R. refuses job.

Example No. 2—Continued:

Under H.R. 12972:

If C.R. takes job, work related disregards will allow her to retain $93 a month of SSI. In addition, she will maintain her medicaid and home attendant care programs eligibility. In this situation, her net gain would be:

Salary	$400
Remaining SSI	+93
	493
Lost SSI	—97
	396
Transportation	—16
	380
Taxes	—45
Net gain	335

1. C.R. gains $335.
2. The government save $97 in reduced SSI and gains $45 in taxes. The total net savings for the government is $142.
3. If job ceases and C.R. unable to find work, she can resume her former level of SSI payment.
4. Because C.R. could successfully demonstrate job capacity, the Dept. of Rehabilitation becomes interested in supporting C.R. through community college.

This would increase her skills development and the chances of a future, fully self-sustaining job.

C.R. takes job.

Example No. 3:

L.T. is female, age 26, quadraplegic, and has an electric wheelchair, a live-in 24-hour attendant worth $600 a month, and high medical and equipment cost worth $400 a month.

L.T. has a job opportunity as a part-time telephone answerer and referral person. This job can be done from her own apartment. The work hours are flexible. L.T. can work as much as she wants and earn accordingly. The job requires some attendant care during work.

Under present regulations:

It would be best for L.T. to earn $230, just below the current SGA level of $240. In this situation L.T. would maintain eligibility for full medicaid and attendant coverage and retain some of her former SSI Payment. Her net gain would be:

Salary	$230
Attendant care during work	—25
	205
Taxes (mandatory)	—30
	175
Lost SSI	—78
	97
Remaining SSI	+117
Net gain	214

1. L.T. gains $214 and keeps full medicaid and attendant care eligibility.
2. The government saves $78 in reduced SSI and gains $30 in taxes. The total net gain for the government is $108.
3. Should L.T. not be able to continue the part-time work, she can resume her former level of SSI payment.

Remember: If L.T. earns another $10, she will be terminated from SSI, medicaid, and attendant care programs. Then her net gain would be close to negative $1,000.

Example No. 3—Continued

Under H.R. 12972:

L.T. could earn $440 and still be below the revised SGA level of $443. She would retain her eligibility for medicaid and attendant care programs. Her net gain would be:

Salary	$440
Attendant care during work	—25
	415
Mandatory taxes	—30
	384
Lost SSI	—102
	282
Remaining SSI	+87
	369

1. L.T. gains $369.
2. The government saves $103 in reduced SSI and gains $30 in taxes. The total net gain for the government is $133.

But, in actuality, L.T. decided to earn $496 under present regulations, and either not report or inadvertently misreport her earnings. After three years, Social Security terminated her SSI and demanded $10,000 in back payment. L.T. also faced imminent loss of attendant and medicaid eligibility. She committed suicide.

Example No. 4:

"S.W." is a male, quadriplegic, age 31, and uses an electric wheelchair, and respirator. He has 24-hour, live-in attendant care at home worth $600 and disability related medical cost worth $80 a month.

S.W. is college educated and holds a masters degree. The Department of Rehabilitation has spent $25,000 on his case.

S.W. has a job opportunity as statistical analyst paying $1185 a month. Taking this job requires $225 worth of attendant care at the work site. By working during the day, S.W. could reduce his need for Title XX home attendant care to $300 a month. Taking the job also requires $80 a month in transportation to and from work, and $75 a month in disability related equipment costs.

Under present regulations:

If S.W. takes the job, after one year he will be terminated from SSI, attendant care, and medicaid programs. At that time his net gain would be:

Salary	$1,185
Attendant care at home	−300
	885
Attendant care at work	−225
	660
Transportation to and from work	−80
	580
Disability related equipment at work	−75
	505
Medical expenses	−80
	425
Mandatory taxes	−325
	100
Lost SSI	−190
Net gain	−90

Of course, S.W. refuses the job. And the $25,000 investment by the Department of Rehabilitation is pointless.

Example No. 4—Continued:

Under H.R. 12972:

If S.W. takes the job, his disability related work expenses disregards will allow him to retain the full SSI payment of $190. In addition, he retains eligibility for attendant care at home program and medicaid program. In this situation, his net gain would be:

Salary	$1,185
Remaining SSI	+190
	1,375
Attendant care during work	−225
	1,150
Transportation to and from work	−80
	1,070
Disability related work equipment	−75
	995
Mandatory taxes	−325
Total	670

1. S.W. gains $670.
2. The government saves $300 in attendant care costs at home, and gains $325 in taxes. The total net gain for the government is $625.

3. S.W. in a position to obtain job advancement to a self-sustaining position in the future.

S.W. takes job. And the $25,000 Department of Rehabilitation investment produces the intended result—job placement.

DIFFERENCES BETWEEN SSI DISABILITY BENEFITS AND TITLE II DISABILITY INSURANCE

The major differences include the following:

1. Cash assistance for the disabled under SS is provided only to those disabled individuals with income and assets low enough to meet certain Federal and State eligibility standards, and is intended to provide a subsistence level of income for needy disabled, blind or aged individuals.

2. Eligibility for, and the amount of, SSI benefits are not related to whether the individual has earned social security coverage, or to the level of an individual's previous earnings, as is the case for disability insurance and other social security benefits.

3. Disabled SSI recipients have a $1 reduction in SSI benefits for every $2 of earnings in excess of $65 a month, until the SGA earnings test (currently $230 per month) disqualifies them for any SSI benefits. In contrast, earnings below the SGA level do not reduce disability insurance payments.

4. Blind SSI recipients are not subject to the SGA test and also are allowed disability-related work expenses disregards.

Senator MOYNIHAN. Mr. Parker is vice president for health insurance of the Guardian Life Insurance Co. He appears on behalf of the Health Insurance Association of America.

We welcome you, Mr. Parker, as we have welcomed our previous witnesses. Do you have a statement, sir—I see that you do. You may submit it for the record or you may read it. First, let me say that the statements of Mr. Gorski and Mr. Sanders will be made part of the record.

Mr. PARKER. Senator, I would like to read a great deal of my statement. It is quite brief.

Senator MOYNIHAN. Please. You have been very patient with us. We will be more than happy to listen.

STATEMENT OF GERALD S. PARKER, VICE PRESIDENT FOR HEALTH INSURANCE, GUARDIAN LIFE INSURANCE CO. ON BEHALF OF THE HEALTH INSURANCE ASSOCIATION OF AMERICA

Mr. PARKER. You have identified me, so I will not bother with that. I am appearing on behalf of the Health Insurance Association of America, which is a trade association whose member companies write over 90 percent of the health insurance written by insurance companies in the United States.

I very much appreciate the opportunity of appearing before your subcommittee to comment on H.R. 12972.

We support the objective to encourage work activity on the part of people who are disabled and receiving SSI benefits. Incentives that will motivate such people to be productive and produce earnings by their own efforts are desirable not only because such activity allows them a more fulfilling life, which it does, but also because it can have a very real, positive effect on the cost of the program, provided it is done with care and provided the motivation is consistently in the direction of encouraging people to work and thus reducing the benefit levels.

The key to this consistency is to be sure that the beneficiaries' after-tax income while working is sufficiently greater than his income while he is idle in order to provide a financial motivation. And while there is some emotional motivation to work that arises just from the fact of successful effort, that is not really strong enough by itself without the help of economic motivation as well.

It is our view that lack of adequate motivation for rehabilitation and recovery is one of the major reasons for the rapid increase in the cost of the social security disability program. So we applaud the purposes of this bill. However, there are elements in it that disturb us and worry us. One of the key elements in defining disability and in setting up the initial determination that a person is disabled for the purposes of SSI or social security is known as the medical listing.

This is a listing of medical impairments which is now quite out of date. The diagnosis of any of these impairments, as we understand it, automatically qualifies a person for disability benefits under SSI if he qualifies under the income requirements. A diagnosis of one of these impairments qualifies a person for disability benefits under social security if he qualifies by reason of his work history.

There is a proposed revision of the medical listing now under consideration.

Senator MOYNIHAN. How old is the current listing?

Mr. PARKER. Senator, I cannot tell you exactly, but it starts, I believe, back when the social security disability benefits first began, which was in 1956, and it must have followed shortly after that. How recently it has been revised I do not know. I have seen the proposed new revision.

In our view, there are some serious problems with both the present medical listings and the proposed modifications. There are vocational factors that are applied in judging the degree of disability of people who do not meet the medical listings, but anyone who does meet them can automatically be deemed disabled.

The problem is that there are many thousands of people who meet the medical listings and yet who are working every day. The medical lists make no distinction between the intellectual and physical demands of office workers and hod carriers. There is no occupational qualification.

Many people are doing office work, bench work, telephone work and many other jobs in spite of being disabled according to the medical listings.

Even in the absence of fraudulent diagnoses—of which, unfortunately, there is not an absence—the situation does propose danger. In the case of the social security disability program, the danger is lessened somewhat by the SGA limitation and the fact that this person who is actually working cannot qualify for benefits.

But if you look at the possibilities that arise from increasing the SGA limits under SSI, you find worrisome things. To begin with, in the remarks recorded at the time that the bill was introduced in the House it was indicated the maximum SGA would be increased to $240 to $443 a month. Now, in the material that you have distributed, I find that that can be $633, I think it is, plus work incentives that could carry it up very much higher.

And that leads to a very serious question. The intention of the bill is to affect the motivation of people to work and so long as it motivates them to work, it is great. But suppose it motivates them not to work? We think it is reasonable to assume that many of the people who are working in spite of being disabled according to the medical listings are doing so, in part, because they are not sure that they would be considered disabled and thus be eligible for social security benefits. And they are unwilling to stop working and lose their income for 6 or 7 months while the matter is being determined.

But suppose a person is earning $700 per month and supposing then he decides to reduce his earnings to $600 a month in order to become eligible for $100 of SSI benefits? Since the applicable definition of disability is the same SSI and social security, qualification for the $100 a month SSI benefit would assure him he could also qualify for social security.

At this point, he could reduce his earnings to below the $240-per-month level by lessening his activity or discontinue it, qualify for social security benefits, and also receive enough SSI to bring his income back to at least the $700-a-month level he enjoyed before discontinuing his efforts.

If this scenario is translated into reality in the case of a fair number of people, the financial impact would reach far beyond SSI. It would impact social security disability benefits probably to an even larger degree. And we all know the cost of these benefits is a very worrisome problem now when the Congress and the people are trying to cope with inflation and, at the same time, keeping the tax burden low.

There are two important matters than concern us. One is that the SGA concept is an integral part of the definition of disability. Some people translate the SGA concept into the idea of allowable earnings, but we think that is an error.

The SGA dollar level as developed, and as primarily applied under present law, is an administrative tool that assists in the determination of whether a person is or is not disabled. The definition of disability requires first, an inability to engage in substantial productive activity and second, that such an inability be due to an impairment.

So a change in what constitutes SGA could be interpreted as a fundamental change in the definition of what is a disability. If the idea of income level becomes predominant and the idea of impairment becomes secondary, the cost of disability benefits under SSI would soar.

The second point is that the definition of disability under SSI and social security are highly interrelated, are administered by the same people in the same way. Under this bill, the SGA concepts and hence the definition of disability of the two programs would be different. This will pose a practical problem for the administrators and it is not hard to guess that the ultimate result of a liberalization of the SSI program would be more liberal social security benefit interpretations which would result in additional social security costs.

We believe that the amount of such an increase might be on the order of 0.05 of 1 percent of taxable payroll.

We are not proposing that this concept of motivating work be rejected but we do ask that you be careful, lest actions that would motivate work on the part of some beneficiaries turn out to encourage idleness and disability on the part of others, perhaps those making

larger incomes and suffering less than the people the bill was primarily intended to help.

It seems to us, for example, that the SSI should not be paid to those whose monthly earnings exceed the minimum wage.

We thank you, sir, and if you have any questions, I would be glad to try and respond.

Senator MOYNIHAN. I certainly do. I thank you, Mr. Parker. You have been very open in your testimony which is not always the easiest way to proceed.

What do you know about the employment levels of the handicapped, to use a general term, in the United States. How many disabled persons are in the work force?

Mr. PARKER. Statistically, Senator, I do not know anything about it. I am aware of individual cases among people we insure for disability.

Senator MOYNIHAN. Then the interest of health insurance companies in this legislation derives from the fact that they insure persons against disability.

Mr. PARKER. We insure people against disability and we also have the problem of insuring people who have handicaps.

Senator MOYNIHAN. You provide for the disabled, who have special insurance needs?

Mr. PARKER. We are involved in that very deeply.

Senator MOYNIHAN. That is an aspect of your business with which I am not very familiar. I would like to find out more.

Do not think you are not heard by us. These marginal points at which an individual may decide it is more beneficial to reduce, rather than increase, work activity are a central concern of our welfare programs also. It is not surprising to discover the same difficulty here. Similarly, it is a problem which occurs in many forms of retirement, or with any other situation where there are two available streams of income. It is not easy to devise a system which consistently produces maximum work effort.

But we certainly recognize this serious challenge and responsibility. We have seen the cost of the programs go so much further than anyone ever anticipated.

I thank you, Mr. Parker. You have been most generous with your time. I trust you will extend my appreciation to the association as well.

Mr. PARKER. Thank you, sir.

[The prepared statement of Mr. Parker follows:]

STATEMENT OF THE HEALTH INSURANCE ASSOCIATION OF AMERICA PRESENTED BY GERALD S. PARKER

My name is Gerald S. Parker. I am a Vice President of The Guardian Life Insurance Company of America. I am appearing on behalf of The Health Insurance Association of America, which is a trade association whose member companies write over 90 percent of the health insurance written by insurance companies in the United States. I very much appreciate the opportunity of appearing before your Subcommittee to comment on H.R. 12972.

For insurance companies to oppose the thrust of this legislation would be about as intelligent as coming out against motherhood and apple pie. We support the objective to encourage work activity on the part of people who are disabled and receiving SSI benefits.

Incentives that will motivate such people to be productive and produce earnings by their own efforts are desirable, not only because such activity allows

them healthier self-images and more fulfilling life, which it does, but because it can also have a very real positive effect on the cost of the program, provided it is done with care, and provided the motivation is consistently in the direction of encouraging people to work and thus to reduce their benefit levels.

The key to this consistency is to be sure the beneficiary's aftertax income while working is sufficiently greater than his income while idle. While some emotional motivation to work arises just from the fact of successful effort, this is rarely strong enough by it self, without the help of economic motivations as well, to produce the desired result. It is our view that lack of adequate motivation to rehabilitation and recovery is one of the major reasons for the rapid increase in the cost of the Social Security disability program.

We thus applaud the purposes of this bill. However, there are elements in it that disturb and worry us.

One of the key elements in defining disability and in setting up the initial determination that a person is disabled for the purposes of SSI or Social Security disability benefits is known as the Medical Listings. This is a listing of medical impairments, now quite out of date. A diagnosis on any of these impairments automatically qualifies a person for disability benefits under SSI if he qualifies under the income requirements, or under Social Security if he qualifies by reason of his work history. A proposed revision of the Medical Listings is now under consideration.

In our view, there are some serious problems with both present Medical Listings and the proposed modifications. There are vocational factors to be applied in judging the degree of disability of persons who do not meet the Medical Listings. But anyone who does meet them can automatically be deemed disabled. The problem is that there are many thousands of people who meet the Medical Listings, yet are working every day. The Medical Listings make no distinction between the intellectual and physical demands on office workers and hod carriers. There is no occupational qualification. Many people are doing office work, bench work, telephone work, and many other jobs in spite of being disabled according to the Medical Listings.

It is not hard to visualize why. There are people who can do office work, but who cannot handle a traveling salesman's job. There are traveling salesmen who might not be physically able to swing a pick axe or sledge hammer. There are instrument mechanics and appliance service people who would not be able to handle the job of a logger.

Even in the absence of fraudulent diagnoses (of which unfortunately there is no absence) the situation does pose danger. In the case of the Social Security disability program, the danger is lessened somewhat by the SGA limitations and the fact that a person who is actually working cannot qualify for benefits.

But look at the possibilities that arise from increasing the SGA limits under SSI. To begin with, in the remarks recorded at the time the bill was introduced in the House, it was indicated that the maximum SGA would be increased from $240 per month to $443 per month. But we have been recently informed that there are circumstances under which a person can have an income as high as $700 per month without losing SSI. This leads us to a serious question.

The intention of the bill is to affect the motivation of people to work. So long as it motivates them to work, that's great. But suppose it motivates some not to work? We believe it is reasonable to assume that many of the people who are working in spite of being disabled according to the Medical Listings are doing so in part because they aren't sure that they would be considered disabled and thus be eligible for Social Security benefits, and they are unwilling to stop working and thus lose their income for six or seven months while the matter is being determined. But suppose such a person is earning $700 per month, suppose he then decides to reduce his earnings to $600 per month in order to become eligible for $100 per month of SSI benefits. Since the applicable definition of disability is the same for SSI and Social Security benefits, qualification for the $100 SSI benefit would assure him that he would also qualify for Social Security benefits. At this point, he could reduce his earnings to below $240 per month by lessening his activity or discontinuing it entirely, qualify for Social Security benefits, and also receive enough SSI to bring his income back to at least the $700 level he enjoyed before discontinuing his efforts, and most of it tax free at that.

If this scenario is translated into reality in the case of a fair number of people, the financial impact would reach far beyond SSI. It would impact Social Security disability benefits, probably to an even larger degree. And we all know

the cost of those benefits is a very worrisome problem in this day when the country and the Congress are trying to cope with inflation at the same time they are trying to keep the tax burden low enough so that anyone will be motivated to work.

There are two important matters that concern us. One is the SGA concept is an integral part of the definition of disability. Some translate the SGA concept into the idea of "allowable earnings," but we think this is an error. The SGA dollar level was developed and is primarily applied under present law as an administrative tool that assists in the determination of whether a person is or is not disabled. The definition of disability requires first, an inability to engage in substantial gainful activity, and second, that such inability be due to an impairment. So a change in what constitutes SGA could easily be interpreted as a fundamental change in the definition of disability. If the idea of income level becomes predominate and the idea of impairment becomes secondary, the cost of disability benefits under SSI would soar.

The second point is that the definition of disability under SSI and Social Security are highly interrelated and are administered by the same people in the same way. Under this bill, the SGA concepts, and hence the definitions of disability under the two programs would be different. This will pose a practical problem for the administrators, and it is not hard to guess that the ultimate result of a liberalization in the SSI program would be more liberal Social Security benefits interpretations, which would result in additional Social Security costs. We believe the amount of such an increase might be on the order of 0.05 percent of taxable payroll.

We are not proposing that this concept of motivating work be rejected, but we do ask that you be careful lest actions that will motivate work on the part of some beneficiaries turn out to encourage idleness and disability on the part of others, perhaps those making larger incomes and suffering less than the people the bill is primarily intended to help. It seems to us, for example, that SSI should not be paid to those whose monthly earnings exceed the minimum wage.

We thank you for your attention. If you have any questions, I shall try to answer them or obtain the answers for you.

Senator MOYNIHAN. And now, a final witness who has waited longer than anyone, Dr. Elizabeth M. Boggs, she appears on behalf of the National Association for Retarded Citizens, and a veritable panoply of similar organizations—the American Association of Workers for the Blind, the American Coalition of Citizens with Disabilities, the American Foundation for the Blind, the American Congress of Rehabilitation Medicine, the Epilepsy Foundation of America, the National Easter Seal Society for Crippled Children and Adults, the National Rehabilitation Association, National Society for Autistic Children, the National Advisory Council on Developmental Disabilities, and the United Cerebral Palsy Association, Inc. These are all associations distinguished by their remarkable achievements and devotion to important public purposes.

Dr. Boggs, you have a colleague with you?

Ms. BOGGS. I have a colleague with me, Mr. Richard Verville whom you are acquainted with, who is active with the National Easter Seal Society and who accompanies me, particularly because of his expertise on physical disability and work incentives.

Senator MOYNIHAN. He was back there in the shadows and I did not recognize him. Dick, nice to see you.

Dr. Boggs, proceed as you wish to do.

Ms. BOGGS. I believe you have received a copy of our statement.

Senator MOYNIHAN. We have it. If you would like to place your statement in the record, we will of course be happy to do so, and then you can paraphrase it as you like.

Ms. BOGGS. I would be pleased if you would do so. It reaffirms a number of points that have already been made and I will not reaffirm them,

although I hope that will not be interpreted as any less vigorous support of them.

STATEMENT OF DR. ELIZABETH BOGGS, ON BEHALF OF THE NATIONAL ASSOCIATION FOR RETARDED CITIZENS, ET AL.

Ms. BOGGS. I think that Congressman Stark and Congresswoman Keys stated the case for their bills well and many points have subsequently been expanded upon. One bill that has not been mentioned which we believe is associated with these others in intent is S. 2505 related to medicaid eligibility, a bill sponsored by yourself along with Senators Dole and Javits, and we are also in support of that bill, although if you will examine our statement, you will find that we suggest some modifications.

Senator MOYNIHAN. S. 2505?

Ms. BOGGS. Right. S. 2505.

I think you are also sponsoring this bill, along with a number of other Senators who have joined in as cosponsors, for which we are in hearty accord.

We do believe that particular bill should be considered along with these others, although we would suggest some changes in it. I am not going to go into that since they are covered in our statement. I think that Senator Dole's staff understands some of the arguments that we have brought to their attention and that you will have no difficulty working that bill out with the other sponsors.

But, since it has not been mentioned heretofore, I want to mention our support of it.

I would like to focus in on just two of the underlying issues that you have been considering, but perhaps to approach them from a slightly different direction. The first issue is the notch——

Senator MOYNIHAN. The famous notch.

Ms. BOGGS. Well, there are other notches in the world, but this is the notch, so far as the disabled are concerned. It is the notch at which you suddenly stop having $340 a month income and suddenly have only $240, because——

Senator MOYNIHAN. You have described it in attachment A, have you not?

Ms. BOGGS. Right.

Senator MOYNIHAN. Let's go through this.

Ms. BOGGS. Basically, the law says, in effect, that for the aged, blind, and disabled we will have certain benefits and certain gradual reduction of benefits as a result of increased income and, in particular, of increased earned income. But, lo and behold, there is a catch in that.

Senator MOYNIHAN. We have total monthly income—curve A is total monthly income.

Ms. BOGGS. Well, curve B is the one you should look at first, because that is the total monthly income for a person who gets no State supplementation.

That is the simplest case. The chart shows total monthly income as a function of earned income, and the heavy dotted line shows how an elderly person or a blind person can move from being entirely dependent on SSI to being entirely dependent on their own earnings, and how they are always better off the more they earn, which I think we have

all agreed was a fundamental characteristic that we should incorporate in these income maintenance programs.

That is fine if you are blind, but if you are disabled, when you hit that $240 mark, you suddenly drop out of the system, down to the $240 line, from $341 or so down to $240. That is the vertical line in the middle there.

Now, if you happen to live in the State of New York where it is recognized that the cost of living is higher, the State would be supplementing your SSI as long as you met the substantial gainful activity test, so you would be on curve A, but only until you got to that same $240 level and then you would have an even more devastating fall. You would lose about $160 a month, suddenly, just like that. Not counting medicaid losses, which we will get to in a moment.

Now, I would like to put to you, Senator, that we have been using several different phrases in this situation that have significantly different meanings when we get to applying them. Basically, the old concept, going back to 1957, still reflected in the long-standing language of title II and title XVI, is that of inability to do any significant work or in the statutory words "unable to engage in substantial gainful activity."

Now, you will recall the words "not expected to work." I think those are words that will be familiar to you, and "not expected to work" is really the equivalent of those medical listings. People with conditions as listed are presumed to have such severe impairments that they would have to make a herculean effort to work regularly, and we consider that our society does not require them to do so, although we may wish to reward them if they do.

Now, to say that a person is not able to do any significant work is not the same as saying he is not expected to be self-supporting. That is a critical issue here, because this substantial gainful activity test cuts people off at about half the minimum wage. That is about where it comes out. SGA is not tied directly to the minimum wage, but that it about what that $240 amounts to.

The result is that we are putting into limbo a group of people who are sufficiently disabled to be unable to be self-supporting, because they are not even able to earn the minimum wage, but because they can earn more than half the minimum wage we say that society has no responsibility toward them.

Now, when we talk about being self-supporting what do we mean? The minimum wage is aimed at assuring that an able-bodied person should have a decent minimum standard of living if he works and works hard. But the disabled, to be self-supporting, to have a decent life, have to be able to earn more than an able-bodied person earns beecause they incur a variety of extra expenses. Not only work expenses, but nonwork expenses, and that is one of the reasons why you have heard so much talk about disregarding the expenses of attendant care and the like. We are saying that after you take account of those extra costs, then what is left is your measure of whether that person can be considered self-supporting.

It seems to me that self-support is really the issue—not whether you can work a little bit, but whether you can do enough to live, and the measure for that, for disabled people, really has to be seen a little differently.

Now, I would like to say one or two things about those people who are in the limbo between $240 and what amounts to the minimum wage, which is approximately in the area of the $443 we have been talking about. First of all, what work they get is likely to be in the secondary market where there are very inadequate fringe benefits. In particular, low-level and part-time jobs usually carry very inadequate private health insurance coverage; that makes the loss of medicaid extremely critical, particularly since a disabled person is usually considered an extraordinary risk. There are all sorts of rules in the private insurance field which can disqualify a disabled person for preexisting conditions, for example.

I have just been looking at some information that has been submitted to you in written testimony on behalf of the National Association of State Mental Retardation Program Directors. This is not live testimony, but I believe it will be available to you.

Senator MOYNIHAN. Make sure we have it, will you?

Mr. BOGGS. I certainly will. I am not sure whether the young lady who brought me my copy is still in the room. I cannot look behind in all this glare. But I am sure you will have it.

[The following was subsequently supplied for the record:]

STATEMENT OF THE NATIONAL ASSOCIATION OF STATE MENTAL RETARDATION PROGRAM DIRECTORS, INC.

The National Association of State Mental Retardation Program Directors represents state level public administrators in the fifty states, responsible for over half a million retarded children and adults who participate in an array of special day and residential programs. In light of our concern for the effective delivery of services and benefits to retarded persons, we wish to endorse legislation under consideration by the Subcommittee today: eliminating the work disincentives for handicapped persons under the Supplemental Security Income Program. These disincentives pose a major threat to the cornerstone of state mental retardation policy in every state of the Union—opening new opportunities for a group of citizens who have so long been denied.

An important factor in gaining community acceptance of retarded persons is the development of their potential to become working, contributing members of society. The Supplemental Security Income Program provides income to these individuals while they learn the necessary skills for self-care, social interaction, work-related skills and, finally, some level of independence. Unfortunately, as currently structured, the SSI program also establishes a frustrating roadblock in the way of handicapped persons trying to make the transition into the world of work.

This roadblock is the so-called "notch" effect caused by the Substantial Gainful Activity (SGA) test of disability. Unlike blind and elderly persons, disabled SSI recipients are not gradually phased out of the program as their earned income increases. Instead, once they earn even a few dollars over the current SGA limit of $240 per month, they are dropped from the program, because monthly earned income above this level is considered by the Social Security Administration to be evidence that the recipient can engage in substantial gainful activity and, therefore, is not disabled.

To make matters worse, the SGA test has not been keeping pace with inflation. Before the January, 1978 adjustment raising the SGA level to $240 per month, SGA was based on figures established in 1974. In the five year period between adjustments, the cost of living escalated by over 35 percent. To simply keep pace with this increase, the 1978 SGA test level should have been roughly $270 per month.

WHAT HAPPENS WHEN A RETARDED PERSON IS DROPPED FROM THE SSI PROGRAM?

Not only does his cash benefit from SSI disappear but, in many states, loss of SSI eligibility disqualifies the person for Medicaid and access to needed social

services. Thus, a marginal increase in earnings can pull the rug out from under a handicapped person who depended not only on SSI for basic subsistence, but on Medicaid for vital health services and, in some instances, on Title XX social services for necessary assistance in adjusting to community life. An appendix to our written statement graphically represents this double jeopardy that strikes a disabled person when he or she tries to inch his or her way into earning a living.

This disincentive to work is both costly to society and demoralizing to the handicapped person and his or her family. A more rational, more equitable approach to motivating disabled individuals to work, is the approach currently in use for blind and elderly SSI recipients—namely the gradual reduction in SSI payments (one dollar for every two dollars of additional earnings above the initial disregard) until the individual is phased out of eligibility when he or she earns $443 per month.

Increasing the SGA test for disability to the $443 per month phaseout point—as suggested in the legislation before this Committee (H.R. 12972)—will not only remove work disincentives, it will also assure equal treatment for disabled, blind and elderly beneficiaries of the SSI program.

WHO IS ACTUALLY AFFECTED BY THIS LEGISLATION?

In Louisiana, there are approximately 1300 mentally retarded individuals enrolled in day development centers. Roughly 1000 of these clients currently receive SSI benefits. These centers, which are similar in nature to programs in other states, provide training in job-related and social skills as well as a wide range of work activities for severely retarded adults. As a way of preparing clients for independent living in the community, day developmental centers place clients in group homes and find jobs for them either in private industry or in sheltered workshops. These retarded clients contribute a portion of their monthly earnings and SSI benefits to their room and board and care in the group home or similar non-institutional settings, with the state picking up the balance of the cost. Currently, there are 57 employed clients residing in group homes, 51 of whom are earning in excess of $240 per month. However, because of the severity of their handicaps, in most instances, they are incapable of earning much more than a month (and may never be able to do so). When their SSI is cut off, the state has to absorb the full cost of maintaining them in a community home, thus limiting the number of such individuals that can be supported in the community.

Louisiana has an extended work training program for moderately-severely retarded adults, headquartered in Shreveport. The program, known by its acronym C–BARC (for Caddo-Bossier Association for Retarded Citizens), is an industrial sub-contractor bidding company actively for work from 19 local plants, including General Electric, Western Electric, Libby Glass, Louisiana Army Ammunition Plant and Frymaster Corporation. Last year, the retarded workers earned $228,000 from these contracts. This is proof that handicapped persons, even severely handicapped persons, can work, will work, and can be very productive members of society—with special help understanding and the appropriate incentives to try.

On the average, C–BARC places 3–4 percent ofits clients per year in outside employment. However, sometimes clients refuse placement although they may be ready to hold a job on their own—because they are afraid to cash their SSI check. Often this is a decision made by the retarded person's family who cannot afford to give up the SSI benefit when there is only an incremental increase in the individual's income.

An example of this phenomenon is the case of Steven F. Steveris, thirty, mildly retarded and physically disabled from polio. The local vocational rehabilitation agency placed him in a job as an apprentice to a shoe repairman. The repairman was prone to emotional outbursts that Steve could not deal with, and he was eventually removed from the position. The vocational rehabilitation agency again tried to place him, but when they were unsuccessful, Steve was referred to C–BARC. For eight years, Steve has commuted by bus every day from a small, nearby town to the C–BARC facility. His supervisors at C–BARC feel that he is now ready to try independent employment again. But his family is unwilling to let Steve leave C–BARC because he may also lose whatever job he might be placed into and they are too poor to do without the income from Steven's SSI benefits.

Steve's case is not an isolated incident. C–BARC can identify at least seven other people they are having problems placing in higher-paying jobs because of the fear of the loss of SSI eligibility.

The low SGA test is a serious disincentive to greater employment opportunities for handicapped people. The best solution at this time is to equalize the earnings limit for disabled persons with that of the blind and the elderly at $443 per month, as proposed in the House passed version of H.R. 12972.

Our Association also supports the other provisions of the so-called Keys Disability bill (H.R. 12972) regarding work-related expenses and attendant care services. For many handicapped persons, such allowances can mean the difference between a life of total dependence and the dignity of holding a job.

We also endorse two other bills currently under consideration by the Committee: H.R. 10848, the so-called Stark presumptive disability bill, and S. 2505, introduced by Senators Dole and Javits, which would allow certain disabled persons in need of attendant care services to be eligible for Medicaid.

H.R. 10848 would allow a person to be considered presumptively disabled for the purpose of receiving SSI benefits if he or she had previously been deemed eligible for SSI benefits within the past five years. This legislatiion would help to allay the fears of many SSI recipients who would not seek independent employment because of the threat of losing all income if, once off of SSI, they lose their jobs. This is a very real threat for many disabled persons who have past records of repeatedly losing their jobs.

S. 2505 permits certain handicapped individuals in need of attendant care to qualify for Medicaid in the 32 states that have so-called medical spend-down provisions. While the basic concept of the legislation is sound, we believe that it needs to be made applicable to clients in all fifty states. The substitute language proposed by witnesses representing a coalition of eleven national organizations representing handicapped citizens strikes us as a major improvement.

In conclusion, these three bills (H.R. 12972, H.R. 10848 and S. 2505) represent a responsible, incremental step toward making a place in the community and in the work-a-day world for retarded individuals throughout the conutry who would otherwise live out their lives in an empty existence, devoid of self-worth, and as burdens to their loved-ones and society.

APPENDIX - DISINCENTIVES TO WORK FOR DISABLED SSI RECIPIENTS

Extracted from:
Income Maintenance and the Developmentally Disabled, An Analysis of Policy Issues

by Robert Gettings,
Harold Tapper, and N. Myrl Weinberg

NASMRPD

December, 1977

2. THE PARADOX OF WORK INCENTIVES FOR THE DEVELOPMENTALLY DISABLED INDIVIDUAL. As indicated in Chapter III, an applicant must be unable to engage in substantial gainful activity as the result of a medically determinable disability which is expected to last at least twelve months in order to be eligible for Title II or Title XVI benefits. However, Congress has recognized that the condition of some recipients may improve, new medical or rehabilitation technology may be developed, or societal attitudes toward the handicapped individual may improve to the point where he or she is no longer considered disabled. Because of this potential for change in the degree or consequences of an individual's impairment, and in technological, social, economic, and labor market factors, SSA provides work incentives to get those recipients who are capable of substantial gainful activity back into the work force.

The most fundamental work incentive used by SSA is, quite simply, to deny benefits to individuals who are physically and mentally able to work. The medical disability and substantial gainful activity (SGA) tests which rule out benefits to able-bodied individuals under the Title II and Title XVI programs, therefore, must be viewed as negative work incentives.

Current SSA regulations indicate that average earnings of over $200 a month generally indicate that a recipient is engaged in SGA and, therefore, is not considered "disabled" within the meaning of the law. Average monthly earnings of between $130 to $200 constitutes a gray area in which the individual may or may not be found to meet the SGA test, depending on such circumstances as his work activity, medical evidence of his impairment and other related factors. However, if the individual works in a sheltered workshop or a comparable facility, earnings not exceeding $200 a month normally will not establish the capability to engage in gainful activity. In point of fact, SSA officials indicate that beneficiaries earning under $200 a month, regardless of their work setting, are very rarely found to be engaged in gainful activity.

The current SGA test has not been adjusted in almost five years. In the interim the average earnings of workers covered by Social Security have increased by more than 35 percent and the cost of living has gone up by a comparable amount. As a result, the SGA test is currently so low that it acts as a disincentive to the disabled worker with marginal work skills who wishes to earn his own way.

Recommendation: Congress should eliminate the substantial gainful activity test of disability from the Act and, in its place, use the same earnings limitation and benefit reduction formula applied to aged and blind recipients of SSI. As witnesses representing consumer organizations for the blind and disabled recently told the House Welfare Reform Subcommittee, the current SGA test causes: "(a) unfair treatment of the disabled relative to other welfare categories; (b) a destructive notch

resulting in loss of all income support and Medicaid eligibility if $200 or more is earned; and (c) a perversion of real work incentives."[14] The fact that twice the percentage of blind SSI recipients were employed as of September, 1976, (blind-6.8 percent; disabled-3.1 percent) and had average monthly earnings of over three times as much as their disabled peers (blind-$262.07; disabled-$82.53) suggests that removal of the SGA test might have a favorable impact on the employability of disabled SSI recipients.[18]

Should Congress elect to retain SGA as a factor in determining the eligibility of disabled persons, then, at least, the current income test should be raised substantially and indexed to protect recipients against future cost of living increases.

In this regard, it should be noted that the Social Security Administration recommended in February, 1976, that the SGA test be increased to $250 monthly and indexed in the manner suggested above. Apparently fearful that a higher SGA test would lead to significant increases in the number of eligible beneficiaries, HEW later decided to pigeon-hole the proposed regulations. Ironically, one of the clearest statements of the rationale for raising the earnings test is found in the following quote taken from the February, 1976, regulations: "[T]he [SGA] earnings amounts used are more effective when they are increased consistent with increases in the average earnings of workers in private industry. As the general level of earnings increases, the fixed level guides become less indicative of engagement in the labor market and need to be adjusted."[9]

Should Congress choose this latter approach, the SGA test should be maintained at a level commensurate with 70 percent of the prevailing federal minimum wage. Under such an approach, the monthly SGA test would be approximately $310 in 1978, $338 in 1979, $362 in 1980 and $390 thereafter.*

3. INCOME DISREGARDS AND BENEFIT REDUCTIONS. The intent of Title XVI of the Social Security Act is to promote work by keeping benefit reduction ratios low enough to assure the worker a substantial return from increased earnings. Thus, the first $20 of the monthly income from any source, plus up to $65 of earned income, are not counted in determining whether an individual meets the SSI means test. In addition, the benefit reduction ratio of 1:2 (one dollar loss in benefits for every two dollars earned) is intended to maintain the recipient's incentive to earn additional dollars until he reaches the point where he achieves economic independence. The benefit reduction ratio of 1:4 in the Food Stamp and Section 8 rent subsidy programs are similarly designed.

In fact, however, the combination of a low initial income disregard and relatively high benefit reduction ratio in the SSI program tends to inhibit disabled workers from entering or re-entering the work force. Developmentally disabled individuals are particularly hard hit by these so-called work incentives because they have such marginal employment skills. For example, a recent Labor Department study found that the average earnings of mentally retarded workshop clients were 87¢ an hour in certified workshops and 56¢ an hour in non-certified workshops.[6] Under the current SSI program, the benefit check of a full-time worker earning 87¢ an hour would be reduced by roughly $27 a month.* The worker earning just 60¢ each hour would lose monthly benefits of almost $10. Since a sheltered workshop or similar sub-minimal wage setting will be the highest level of employment many developmentally disabled workers can achieve, it seems unnecessarily punitive to impose an earnings penalty on their already paltry wages.

The lower the benefit reduction ratio, the greater the work incentive. In principle, this is logical. But in practice not every benefit can be reduced in incremental steps. Some benefits are indivisible: either you are entitled to them or you are not. Medicaid is one such program. In most states, the loss of Medicaid benefits coincides with the loss of SSI eligibility and, thus, represents an extreme case of high benefit reduction—a so-called "notch."** In the case of disabled persons, whose health and medical needs are often extensive, this "notch" can be a yawning cavern which swallows up the individual and his resources. Thus, the possibility of losing Medicaid benefits or social services benefits funded under Title XX of the Act may be a major deterent to engaging in remunerative employment.

---

*Assuming the worker is paid for 40 hours a week for a total of 50 weeks at 70 percent of the federal minimum wage levels specified in the Fair Labor Standards Amendments of 1977 (P.L. 95-151).

*Assuming he or she worked 40 hours a week and had no other source of income.

**One modifying factor here is the "spend down" feature incorporated by 29 states and the District of Columbia in their Medicaid state plans. Under this plan, the "medically indigent" maintain Medicaid coverage by spending their earnings for medical care down to the level of SSI eligibility. While Medicaid eligibility is maintained, the "spend down" is, in effect, a dollar-for-dollar reduction of earnings. The beneficiary continues to be eligible for Medicaid, but his or her work incentive is destroyed.

4. THE DISINCENTIVE EFFECT OF CUMULATIVE BENEFITS. When a disabled individual qualifies for benefits under several social welfare programs (e.g., SSI, Medicaid, social services, Food Stamps, and a rent subsidy), the interplay between the benefit reduction ratios under these programs can serve as a disincentive to work. The net effect of this phenomenon is that individuals with the most extensive needs, as represented by their utilization of social benefits, have the poorest incentive to enter or re-enter the labor market.

Figure V-1 depicts the career of a hypothetical disabled person who qualifies for and receives SSI, Medicaid, a rent subsidy, and Food Stamps benefits, and whose monthly earnings increase steadily from zero to $425 a month over an 18 month period. A further assumption is made that our hypothetical recipient begins a nine month trial work period at the beginning of the third month and doesn't lose his eligibility for SSI benefits until the end of the fifteenth month.*

Note that with no earnings during the first month our recipient has benefits with a total cash value of $356 (i.e., Food Stamps - $46, rent subsidy - $100, SSI benefits - $167, and Medicaid - $43.) Food Stamps, rent subsidy, and SSI benefits are all reduced as income increases. As a consequence, the cash value of total benefits increases very little. For example, over the first year monthly earnings increase by $275 while the value of total benefits increases only $25 - from $356 to $381. The abrupt drop in total benefits at the end of the fifteenth month illustrates the loss of Medicaid benefits - the infamous "Medicaid notch." At the end of 18 months our hypothetical recipient has earnings of $425 a month, a net increase of just $69 in total benefits over the 18-month period. In other words, our recipient's work incentive included a net gain of only $69 for increasing his earnings from zero to $425 a month.

A Title II beneficiary under the hypothetical example would be somewhat better off than the SSI recipient because Social Security benefits are not reduced until annual earnings exceed $1680. The recipient's earnings would not exceed this "retirement test" until the twelfth month, at which time his benefit would be reduced one dollar for every two dollars earned over $1680. However, at the end of the trial work period, he would be engaging in substantial gainful activity and, therefore, would no longer be eligible for Title II benefits. The net effect would be an even more precipitous drop in total income (see Figure V-1 on p. 42).

5. THE TRIAL WORK PERIOD. The trial work period is intended to give a disabled beneficiary the opportunity to test his ability to work and hold a job. The work a person performs during a TWP, regardless of the level of earnings, is not considered in determining whether he is engaged in substantial gainful activity. However, earnings are still considered in determining the amount of the person's benefits. In other words, income disregards and benefit reduction ratios continue to apply to recipients enrolled in a trial work period.

Under current law each recipient gets only one nine-month trial work period during each episode of disability.* A single nine-month trial may be sufficient for a worker whose episode of disability resulted from a non-chronic disease or disorder which is unlikely to reoccur once the individual is cured or rehabilitated.

But for the developmentally disabled person whose episode of disability is, in all likelihood, life long and whose work adjustment problems are complex, a single nine-month trial work period often will be much too short.

Recommendation: The duration of the trial work period should be extended to 24 months, and a time period should be established within which the entire trial work period must take place or else be recycled to zero.

6. PLAN FOR ACHIEVING SELF-SUPPORT. A plan for achieving self-support is intended to encourage disabled recipients of SSI and SSDI benefits to become economically independent. It does so by permitting a person to retain additional income and accumulate certain resources so that he may receive occupational training, purchase job-related equipment, establish a business, etc. Income and resources necessary to carry out the plan are not counted in determining the amount of the individual's benefit, however, such income and resources are considered in deciding whether the recipient is engaged in substantial gainful activity.

One key feature of the plan for achieving self-support which, for all practical purposes, excludes

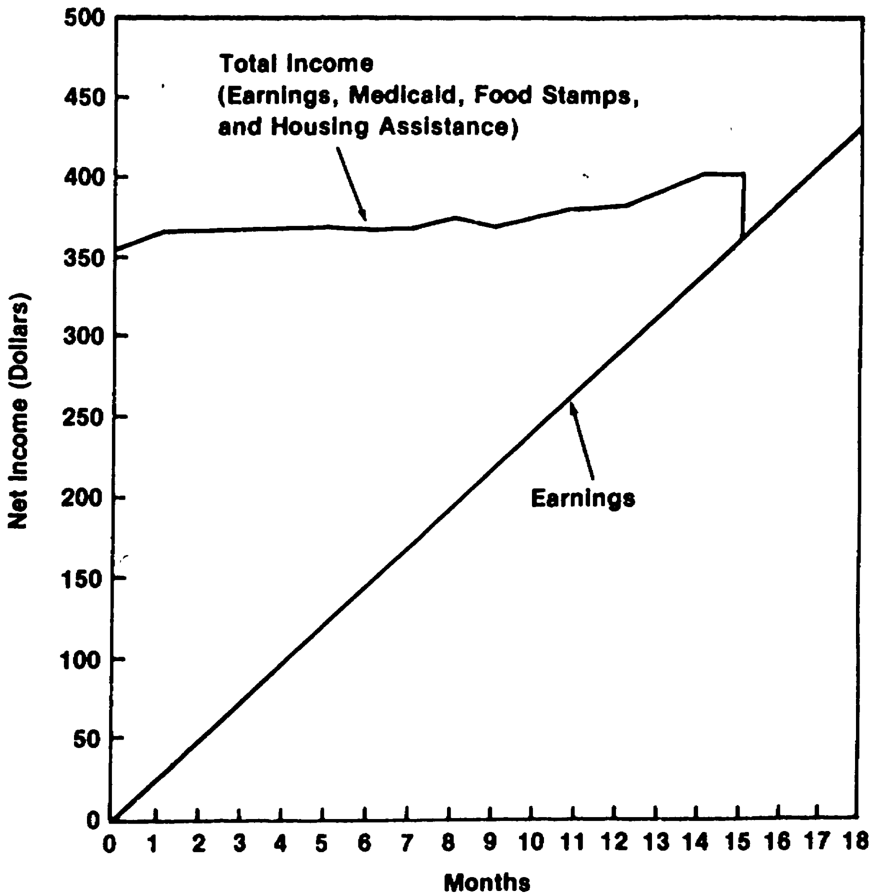
---

*This action has the effect of discounting the individual's earnings in determining whether he is engaged in substantial gainful activity. (See explanation of the Trial Work Period later in this chapter.)

*Even though all payments may be terminated at the end of the trial work period if the recipient is found capable of engaging in substantial gainful activity, his eligibility for SSI benefits continues for an additional 90 days. Thus, he may retain his Medicaid, Social Services, Food Stamps and other benefits related to SSI eligibility for an additional three month period.

Figure V - 1

Relationship Between Earnings and Benefits Under SSI Program



developmentally disabled individuals is that the plan must have a vocational objective. In other words, the plan must focus exclusively on making the SSI or SSDI recipient economically self-sufficient. This is an inappropriate objective for most developmentally disabled persons, who require training to achieve such pre-vocational objectives as money management, the use of public transportation, or independent living as a prelude to the achievement of any vocational goals.

If the plan were to allow recipients to pursue pre-vocational objectives, an additional source of support would be available to help developmentally disabled individuals achieve their program goals. In effect, the recipient could mobilize a greater share of his own resources toward the achievement of pre-vocational objectives.

This limiting feature of the current plan for achieving self-support prevents severely disabled SSI and SSDI recipients from entering the labor market by frustrating their attempts to take the necessary first steps. The irony of this policy is that those individuals who need the greatest amount of assistance to achieve self-sufficiency are excluded from participation.

Recommendation: The Social Security Administration should revise its current policies governing plans for achieving self-support to allow SSI and SSDI recipients to establish legitimate pre-vocational objectives.

7 WORK-RELATED AND LIVING EXPENSES. While current law requires SSA to disregard ". . . expenses reasonably attributable to the earning of any income . . ." in determining the SSI eligibility of blind individuals (Section 1612(b)(4)(A)(ii)) this same provision does not apply to disabled SSI recipients. Many disabled recipients, especially those who are developmentally disabled, incur the same types of extraordinary job-related expenses as blind individuals, therefore, the present Act constitutes a blatant case of discrimination against non-blind, disabled recipients of SSI benefits. For example, specialized transportation services or adaptive devices may spell the difference between whether a cerebral palsied individual with a severe motor involvement is capable of working. There is no sound programmatic justification for allowing blind individuals to deduct such costs and not extending the same privilege to persons with other disabilities. The only rationale which can be offered is that the SSI Trust Fund would have to bear the increased costs associated with extending the provision of Section 1612(b)(4)(A)(ii) to the disabled. However, these short term costs would be offset, at least in part, by the long range savings involved in permitting disabled persons to earn a living and, thus, reduce their dependence on welfare.

Recommendation: Congress should permit SSA to deduct job-related expenses in determining whether non-blind, disabled individuals, under 65 years of age, are entitled to receive SSI benefits.

In addition to disregarding job-related expenses for disabled SSI recipients, the definition of what constitutes an employment related cost needs to be expanded to include transportation, interpreter services and a wide variety of prosthetic devices (specially adapted wheelchairs, symbol boards, special clothing, etc.) which may be necessary to permit a disabled individual to be employed. For some developmentally disabled individuals, permission to deduct such costs may spell the difference between a life of total dependence and the dignity of holding a job.

Recommendation: Congress should authorize an additional monthly increment for blind and disabled SSI recipients who require in-home assistance (i.e., attendant services or social supervision). The amount of this additional payment should be based on the level or intensity of the individual's need for such services. Such a special payment would be similar to the provision in Title 38 of the U. S. Code which authorizes additional monthly benefits for veterans with non-service connected disabilities who require the assistance of an aide or attendant. As is the case with the veterans program, payment of this special, federally financed supplement would be authorized only when a physician has certified that the recipient requires such services to prevent placement in a more costly institutional setting.

REFERENCES

INCENTIVES AND DISINCENTIVES TO EMPLOYMENT

1. Brodhead, W. M "Amendments related to the trial work period" (H R. 1945). Washington, D. C: January, 1977
2. Burke, J A "Disability Insurance Amendments of 1977" Congressional Record. Washington, D C June 28, 1977, p H6629
3. Council of State Administrators of Vocational Rehabilitation "Testimony of the Council of State Administrators of Vocational Rehabilitation before the Subcommittee on Social Security of the House Ways and Means Committee" Washington, D C June 4, 1976
4. Dempsey, J "Handicapped children and disability A policy overview paper" Washington, D C U S Department of Health, Education, and Welfare, October, 1976
5. Department of Labor A guide to sheltered workshop certification. Washington, D C Wage and Hour Division, DOL, 1975
6. Department of Labor Sheltered workshop study. A national report on sheltered workshops and their employment of handicapped individuals Washington, D C June, 1977
7. "Employment of handicapped clients in sheltered workshops" Federal Register (Vol. 39, No 97) Washington, D C May 17, 1974, pp 17509-17513
8. Fair Labor Standards Act of 1938, as amended, (29 U S C 201, et seq)
9. "Federal Old-Age, Survivors and Disability Insurance, Supplemental Security Income for the aged, blind and disabled - Substantial Gainful Activity" Federal Register (Vol 41, No 33) Washington, D C February 18, 1976, p 7415
10. Greenleigh Associates, Inc The role of the sheltered workshop in the rehabilitation of the severely handicapped (Vol II) New York 1975, pp 134-136
11. Lindsey, D. & Ozawa, M. N. "Is SSI too supportive of the mentally ill." Public Welfare. Fall, 1970.
12. Social Security Administration. "Sheltered Workshop Earnings." (Transmittal No 4244 (SSI-105). Baltimore, Maryland: November 4, 1977.
13. Social Security Administration. Social Security handbook (5th edition) (DHEW Publication No. SSA-73-10135) Baltimore, Maryland February, 1974, pp. 800-831.
14. "Testimony of panel on blindness and disability regarding H R 9030 before House Welfare Reform Subcommittee of the Committees on Agriculture, Education and Labor, and Ways & Means" October 14, 1977
15. Treitel, R "Onset of disability" Disability Survey 1966. Washington, D C. Social Security Administration (Report No. 18) 1972.
16. United Cerebral Palsy Associations, Inc. "Statement respectfully submitted to the Subcommittee on the Handicapped of the Senate Committee on Labor and Public Welfare on the new increased federal efforts related to early education of disabled young children and for applied technology to meet individual needs of severely disabled adults" (Mimeo) Washington, D C. UCPA Governmental Activities Office, February 25, 1977
17. Urban Institute. Report of the comprehensive service needs study. U S Government Printing Office, Washington, D C: U S Department of Health, Education, and Welfare, June 23, 1975
18. U S Senate, Committee on Finance. The Supplemental Security Income program: Report of the staff to the Committee on Finance. U S Government Printing Office, Washington, D C. April, 1977

Ms. BOGGS. The point is that in that testimony, they discuss, as an example, the situation in Louisiana. In Louisiana, the State agency for the retarded has done some of those supportive things that were mentiond by an earlier witness to assist retarded people to work and to earn, something more than $240 but not anywhere near $443 yet because they really cannot live on the minimal amount, the State of Louisiana is funding the entire difference between their earnings and their minimal needs.

That is fine, but I do not think that this Congress intended to make the State-Federal partnership quite as dichotomous as that. Although the State of Louisiana is picking up that sudden notch for these marginal workers with real disabilities; you know very well that we cannot count on every State to do likewise without some Federal incentives.

Finally, I want to discuss the medicaid loss as a result of the notch. We are dealing here with a peculiarity of the eligibility for medicaid. If you are elderly, you can get medicaid if you have a low income. If you are over 65 and you are below the special income level, you can get it. Age is really the only categorical criterion you have to meet.

If you are a child, in the majority of States we now have medicaid-eligible children who are not necessarily AFDC children. Not every State takes advantage of that option, but I am just pointing out that at least at the State level it is possible for low-income children to have medicaid without meeting any other categorical test.

If you are a low-income adult between 18 and 65, you have either got to be related to an AFDC child or you have to be blind, or you have to be disabled. If you are blind, you just meet the income test and you are OK. If you have a physical or mental impairment other than blindness, you have to meet that SGA test. As a result, you drop out of the system when you have worked your way halfway to a minimum wage. Dropping out of that system means you are labeled "not disabled" although, God knows, you are still severely handicapped. You are labeled "not disabled" and you lose all eligibility for medicaid, even in a system that recognizes medical indigeny. There is no indexing of that $240; there is no adjustment to the cost of living in a high-cost State because that State does not "supplement" the $240 number. That is a uniform thing, and everybody drops out at the same dollar cutoff.

Now, parenthetically, since I mentioned adult relatives of AFDC children, let me put forward a hypothesis to answer the question you asked Mr. Wortman earlier. The question was: "Where are all of these disabled people on SSI coming from?" I think some of them are coming from among the ranks of those who have been called "incapacitated" and who have been relatives of AFDC children. As you know, a family can go on AFDC if the father is incapacitated. Fiscally it is the same as if he is not there, if he is not earning.

Before SSI, it was often more beneficial for the family to present itself in that way. Since SSI, the differential between what you may get, in many States, under AFDC and what you may get under SSI is such that it can be, in some instances I am sure, more beneficial to the family to classify the disabled member on SSI and take the rest of the family into AFDC. That is a perfectly legitimate and proper

for the family and Congress intended that they should manage the benefits in the way that was most favorable to them. I am just saying to you that I think that is one source of SSI people. They are not people you were not supporting before. They are just people you were supporting on a different list, under a different label.

Senator MOYNIHAN. There is a drop in AFDC.

Ms. BOGGS. Right. There are a number of factors that have gone into the increase in the disability rolls, including the adjustment in the age structure of the population and things of that kind which I am sure you are familiar with. I am sure there is no one overriding factor, but I am quite sure that what I have just alluded to is one of them.

I think that completes my testimony.

Senator MOYNIHAN. That is a very suggestive final point.

Your numbers regarding the notch are very persuasive. To someone who has been involved in the welfare question, they are familiar. They also, generally, may turn out to be insoluble.

Ms. BOGGS. I am reminded of one thing. Some years ago I was a research student at Cambridge University and became familiar with a little document which you may also know called Microcosmographia Academica by a British don named Francis Cornford. It is "A guide to the Young Academic Politician." Cornford says that there is only one reason for doing something and that is that it is the right thing to do. There are any number of reasons for not doing something, prominent among which is the fear that by acting justly now, you might raise expectations that you would, at some future time, also act justly.

I think it was that fear that I heard Mr. Wortman expressing.

Senator MOYNIHAN. That is marvelous.

Ms. BOGGS. Mr. Verville says that he has made a few notes on testimony that has occurred earlier today.

Mr. VERVILLE. Well, it is time to eat—I do not mean to suggest that the Senator is known for enjoying meals—but I suspect he would like to leave like the rest of us.

Senator MOYNIHAN. No; please go ahead, will you not?

Mr. VERVILLE. I just like to comment on a single of points and questions you have raised. I would like to put some material into the record orally and then maybe we will send something in later.

On the question about the rise in the disability rolls, if you look at SSI, and if you actually look at page 15 of the document that the staff of the committee prepared, you see that in the initial year there was quite a jump—and, in fact, I think we will admit that it was at a level higher than what HEW estimated. But if you look at the disability figures from December 1975 through June 1978 you will see that, in effect, the increase was hardly 3 percent per year. In fact, we have a stable SSI disability population now.

The title II disability population is growing at a much more rapid rate, but we should not confuse the two.

Senator MOYNIHAN. For the record, why should we not confuse the two? What is the difference?

Let me say to you in OMB that they do confuse them. They think that the explosion in the disability rolls is associated with the availability of benefits.

Mr. VERVILLE. I think the reason not to confuse the two is based on the fact that, with regard to the SSI disabled, it is not true. The numbers of SSI disabled are not increasing, if you look at the last 3 years. It really is a stable population.

The reason that is important is that it is being used as one of the major arguments against this bill. It is argued that we are going to open up further this Pandora's box out of which there are already too many disabled people escaping onto the SSI roles and onto title II, and I do not think that is the case now with respect to SSI.

On the point of experimentation that you raised related to some action that the House Social Security Subcommittee took, it seems to me that you can look at the disabled and blind populations prior to SSI and find some answers on the questions you are concerned about without experimenting now. You can also look at the blind population now which is not subject to that SGA limitation and see that about twice as many have earnings and their earnings are about 3 times greater, on the average, per month than the disabled.

So, I think that the evidence suggests that changing the SGA level, as we would, would have a work incentive effect. In fact, if you look at some of the States prior to SSI, in Nebraska for example, 10 percent of the disabled population prior to SSI was working. I think the figures are that in about 15 States, 5 percent of the SSI population had some earnings—5 percent to 10 percent of the SSI disabled, or of the APDT disabled were working and had earnings prior to SSI. Now it is about 3.7 percent.

Senator MOYNIHAN. Oh, it has dropped.

Mr. VERVILLE. I think the reason for that might very well be that the earnings limits are different under SSI than they were prior to that time.

So, I think we would feel that experimenting is not necessarily going to prove very much that cannot be gleaned from the existing data.

On the one point you raised about the number of disabled in the work force, I think if you look at the social security survey of the disabled in 1972 you will see that in its definition of severely disabled, about 12 percent were in the work force. In our testimony there is some evidence from the current rehabilitation determination process in SSI that shows that 25 percent of the SSI disabled were initially determined to have work potential by the disability determination unit and referred to rehabilitation.

Twelve percent of those were finally determined to have some work potential and were put into rehabilitation. That would give you some indication that there may be about 12 percent in that disabled SSI population that really does have work potential. But our belief is that they are not able to utilize that because of the economic disadvantage that occurs when you earn anything over $240 a month.

The final point I would make is that I find it singularly unpersuasive that there are going to be people who will come into the SSI system who are disabled and who are earning something between $240 and $440 and who have not already chosen to lower their earnings and go on to title II but who, because they are on SSI will, for some strange reason discover title II and drop their earnings.

That is the premise under which the Social Security Administration and the gentleman from HIAA are basing their conclusion as to increased costs.

The case that I think is more persuasive is the case of the 35 percent of the SSI population that also have title II benefits. That population, when it works, will have its title II benefits reduced, in all likelihood. Under SSI if we adopted 12972, if they earned between $240 and $440 they drop off from title II. They are currently on title II and they could be getting something like $200 to $250 a month on title II, and still be drawing SSI benefits.

The work incentives in SSI that we are proposing will, in fact, draw them off from title II, in my opinion, and will be a savings of something in the neighborhood, for that case, of about $1,900 to $2,000 per disability insurance beneficiary.

I gave Mr. Wortman our testimony which has these other types of cost analyses which show, I think, some savings and asked him if he would have the Social Security Administration comment on them, because I think that our propositions about the savings are as valid as theirs about losses.

Ms. Boggs. Could I add a thought on that? I think the conjectures about how people would be motivated are difficult to analyze because different people who are in different situations are motivated differently. Mr. Wortman—or somebody, one of his staff, I guess—was emphasizing that under disability insurance you get benefits for your family members that do not come in with SSI and that people would be motivated to try to get themselves into DI in order to get those multiple benefits.

But he did not mention that if you are only on DI and not SSI you lose medicaid; medicare, for the disabled, is a deficient medical support. So you would have to have a lot of dependents to make it worth while to forgo medicaid.

The second thing related to the choice of DI versus SSI is that the amount of your social security depends so much on your previous earnings and your work history that people disabled before maximizing their earnings capacity, in fact, get rather low social security benefits. So those two things would be traded off.

The very fact that a third of the SSI population gets some disability insurance but it is not enough to meet SSI minimal benefits indicates the point we are making. We are talking about 700,000 people who are getting social security disability benefits which are not even enough to make them ineligible for SSI.

Senator Moynihan. I understand your point.

Mr. Verville, you said you had some analysis and testimony which you gave to Mr. Wortman and asked if he would respond. I wonder if you could share it with me so that we could ask him?

Ms. Boggs. It is in our testimony.

Senator Moynihan. Oh, it is. Well, we will ask that he respond to it.

That bell signifies another vote, so I will have to move along. We do thank you so much for being so patient and bringing an old and respected friend to this subcommittee.

Ms. Boggs. We thank you for making it possible to have these hearings at some inconvenience to yourself.

[The prepared statement of Ms. Boggs follows:]

TESTIMONY OF PANEL ON BLINDNESS AND DISABILITY

(Representing: American Association of Workers for the Blind, American Coalition of Citizens with Disabilities, American Congress of Rehabilitation Medicine, American Foundation for the Blind, Epilepsy Foundation of America, National Advisory Council on Developmental Disabilities, National Association for Retarded Citizens, National Association of Private Residential Facilities for the Mentally Retarded, National Easter Seal Society for Crippled Children and Adults, National Rehabilitation Association, National Society for Autistic Children, United Cerebral Palsy Associations, Inc., and Mental Health Association—National)

SUMMARY OF STATEMENT

The thirteen organizations represented by this testimony strongly support H.R. 12972, H.R. 10848 and S. 2505. Together, these three bills will eliminate major inequities and disincentives for those disabled individuals desiring to work. A summary of our views relative to each bill follows:

H.R. 12972

1. The current limit of $240 in earned income as defining eligibility based on disability is arbitrary, indeed irrational, since it creates a no-man's-land between the person who does almost no work and the one who can make it in a steady, competitive job. This gap can be filled by the formula proposed in H.R. 12972.

2. H.R. 12972 simply brings parity to the treatment of aged, blind and disabled people under SSI by establishing the same earnings limits and work expenses for all three categories. There is no reason in either the realm of policy or administration, to make these distinctions. It would seem, to the contrary, that in fact work incentives are more important for disabled people of working age than for the aged.

3. The provisions in H.R. 12972 eliminate an extraordinary inequity in the SSI program which results in a disabled person losing all SSI benefits and possibly Medicaid when he or she exceeds $240 a month of earned income. Thus, under current SSI rules, earning $1 more $240 a month results in a loss of about $1,600 of benefits, not counting the loss of state supplementation.

4. H.R. 12972 would encourage work by the 12–15 percent of the disabled SSI beneficiaries whom we estimate are capable of work.

5. Among the blind a substantially higher percentage of SSI recipients (6.9 percent) now work as compared to disabled recipients (3.7 percent). This could reasonably be attributable to the inapplicability of the SGA test to the blind (even though December 1977 data shows that the average earnings of blind recipients who work was only $284.96 a month). Thus raising the SGA limit should be a real work incentive.

6. Encouraging work by disabled persons through the amendments in H.R. 13972 should lessen dependence on SSI. Roughly half the value of earnings is returned to the government in reduced SSI.

H.R. 10848

Disabled persons often work in spite of their disability and not because their disability ceased to exist. Thus, even with increased job skills, there is a continuous risk of failure as the disabled person endeavors in new areas which place greater demands on him. Fear of failing on the job and the loss of SSI benefits associated with their work attempt keep many disabled persons from actively pursuing competitive employment. H.R. 10848 is a simple, low-cost way of eliminating a severe penalty placed on those disabled persons attempting to work.

S. 2505

The loss of Medicaid upon earning $240 a month (the current SGA income limit under SSI) is a severe work disincentive for persons having high health expenses and/or recurring medical problems because of their impairment. While we strongly support S. 2505 we are seriously concerned about the possible narrow interpretation which could be applied to the language in the bill and suggest substitute language which would clearly eliminate the use of the SGA criteria in Medicaid eligibility determinations. Medicaid eligibility for current or former disabled recipents would be based solely on the medical criteria established

under Title XVI and financial eligibility standards established by the state under Title XIX.

I. INTRODUCTION

The forementioned organizations share a common concern: to insure that disabled Americans are allowed the opportunity to contribute to society through self-care and productive work wherever possible and thus to demonstrate their abilities instead of being seen only as dependent on their "disability." Therefore, we strongly support H.R. 12972, H.R. 10848, and S. 2505 and urge their immediate passage. Our joint statement on each of these bills follows.

II. H.R. 12972—"EQUAL PROTECTION" UNDER INCOME MAINTENANCE

A. Purposes of H.R. 12972

The disability provisions of Title II and XVI are aimed at providing for replacement income for persons of working age who are impeded in their efforts to be self-supporting because of mental or physical impairments. As for the blind and elderly, these titles should also assure for the disabled (1) a decent income, taking into account the greater costs of maintaining a minimum standard of living when a person has a physical, sensory or mental impairment, especially when the services of others are required in the activities of daily living. (2) modest incentives to contribute economically by producing goods or services within the limitations of their respective impairments, and (3) equitable treatment within the SSA–SSI system.

The present system does not meet these goals inasmuch as administrative discretion exercised under Section 1614(a)(3)(D) has consistently produced a cut-off in eligibility for disability benefits when a person who by medical criteria should not be expected to work nevertheless does engage in making an economic contribution at a productivity level which exceeds something like one-half the minimum wage. Thus persons, some of whom are severely disabled, who manage to earn (either by arduous full-time work or by part-time work limited by their inability to sustain regular working hours) approximately $250–$300 a month, must live on this as compared to a colleague who earns only $200 a month but remains eligible for SSI, which, added to his earnings, allows him $320 a month to live on. Under Social Security, we permit persons over the age of 65, whether or not disabled, to earn up to $4,000 a year before we apply the "retirement" test. However, we fail to recognize as "retired" on disability a younger person whose earning capacity is as little as $3,000 a year.

H.R. 12972 would provide work options and opportunities for self-betterment and self-respect for certain disabled SSI recipients who can do limited work and who want to work. It is intended to remove major disincentives to employment for disabled people whose limited incomes make them reliant on the Supplemental Security Income program (SSI). As studies described below demonstrate, perhaps as many as 12–15 percent of the persons who meet the medical criteria of disability could take advantage of its provisions.

There are currently some two million disabled people receiving SSI, of whom less than 3.7 percent have earned income (estimate based on reliable 1975 earnings data). Blind persons are not subject to these disincentives; about 6.9 percent of blind SSI recipients have earned income. The percentage of disabled persons who become ineligible for SSI as a result of increased earnings during a calendar year is also low. Yet, other data suggest that a higher percentage of SSI disabled beneficiaries are capable of part-time or other limited work. Recent data (1977) indicate that 24.5 percent of new SSI recipients when evaluated were determined to have some vocational potential and were referred to rehabilitation by the state disability determination unit. Half, or about 12 percent, were determined by vocational rehabilitation personnel to have vocational potential and accepted for vocational rehabilitation services by the state rehabilitation services agency. The recent Social Security Report on the 1972 disability survey indicates that of the severely disabled people surveyed, 12 percent were, in fact, in the work force. In addition, the recent Urban Institute Study of the needs of the severely disabled corroborates these findings in that it indicates that 13 percent of the severely disabled persons surveyed could function in a work setting. (See "Comprehensive Service Needs Study," June 23, 1975, Contract No. HEW 100–74–0309, page 72 ("CSN Study")). The CSN Study does indicate that these individuals were not in the workforce at the time of the Study.

Medical research of the spinal cord injured with substantial impairments (paraplegia or quadriplegia) indicates that about 70 percent of these persons can be rehabilitated so that employment in selected occupations and settings is possible when prompt and comprehensive rehabilitation services are delivered. (Matlack, "Cost Effectiveness of Spinal Cord Injury Treatment," 1974; Sakalas, "Vocational Placement Statistics," Rehabilitation Institute of Chicago, 1974-75.)

Thus, a reasonable estimate is that some 12-15 percent of SSI disabled recipients can work. From our observations of our varied constituencies and from much testimony over the past year on various bills, it is clear that these severely disabled individuals with work potential want to work.

Why aren't they working? Generally, the reasons are two-fold. First, the economic system is not providing job opportunities for them. Job adaptations and other "reasonable accommodations" may have to be made. Second, the income support programs, SSI in particular, make work economically disadvantageous for the disabled person by defining work at half the minimum wage as "substantial." The disincentives are particularly evident to those with severe disabilities resulting in extraordinary costs-of-living such as special equipment of many types, transportation, personal assistance, health, and social services, since losing SSI often means losing other benefits. In the past few years, the Congress has taken a number of steps to remedy the former problem and members of this Committee have been leaders in this effort. Special tax treatment afforded employers of the handicapped, prohibitions against employment discrimination, required affirmative action in employment by Federal contractors and priority to the handicapped in the allocation of public service jobs, and the application of other CETA manpower support all have had or will have an effect on this problem. However, while the structural problems of the economy are being dealt with, the work disincentive for the individual remains. H.R. 12972 and H.R. 10848 would substantially reduce that disincentive and S. 2505 would further reduce the risks of employment for those with substantial health care needs.

B. The Effects of H.R. 12972

1. Raising earnings limits from $240 a month to $443 per month—See Attachment A

Current SSI law permits the Secretary to set criteria for "substantial gainful activity." Successive secretaries have by regulation defined it in dollar terms. Currently the limit is reached when the earned income of disabled persons reaches $240 per month; if $241 is earned (over a six month period) all SSI and possiby Medicaid benefits terminate. Thus, total income drops sharply when $241 is earned (as shown by the line labelled "C" on the attached chart) from about $4,000 per year of earnings and SSI benefits to $2,880 of earnings alone. Since the average Medicaid expenditure per disabled recipient is $450 per year, the loss from earning any amount over $240 a month is compounded and is valued at about $1,600. In addition, in many states, Title XX benefits may be lost when SSI benefits are lost. For example, about 19 states limit eligibility for education, training and adult day care to SSI recipients. About 13 states similarly limit home care. ("HEW Technical Notes on Title XX," May 1, 1978.) Moreover, in states with a high cost-of-living which is recognized through a state supplement, the notch is even deeper.

The change proposed in H.R. 12972 is reflected on the dotted line, labelled "B." The case represented shows only Federal benefits, not including any state supplement. Line B also reflects the current SSI treatment of the blind and aged. As you can see, a blind person is not penalized for working, although as he approaches the minimum wage, he will be phased out smoothly. We propose that the same treatment be accorded the disabled as is now given to the legally blind. The proposal indexes the limit to the benefit levels. In current terms, the limit on earnings for a disabled person (after which he/she is determined to no longer be disabled) is raised from $240 a month to $443 a month. Between $240 and $443 a month of earnings, there is now for the aged and blind, and should be for the disabled (those meeting the medical criteria) a gradual phase out of benefits rather than a total, sudden and premature elimination of benefits. The gradual nature of the benefit reduction is shown by line "B" of the attached chart, compared to the sharp drop shown by line "C" at the $240 point on the graph. Line D of the chart represents the additional loss incurred by disabled persons receiving state supplemental payments when earned income of $241 a

month is reached. For each two dollars earned between $240 a month and $443 a month (beginning with earnings above $65 a month), one dollar of benefits would be eliminated for the disabled as it is for the aged and blind. In summary, H.R. 12972 does no more than apply a gradual benefit reduction rate of 50% to the earnings of disabled persons between $65 and $443 a month, rather than the 100% benefit reduction currrently applied at $241 a month. This simply equates the status of earnings for disabled persons with that of the blind and aged under SSI.

The House Report on H.R. 12972 gives a clear exposition of the inequities and remedies; other testimony today provides ample other case illustrations of the positive effect of H.R. 12972 on work incentives.

2. Expansion of work-related expenses, including attendant care

Under current law, a disabled person is entitled to have deducted from his or her income for purposes of determining whether he or she has earned $240 a month, extraordinary expenses connected solely with work, which non-disabled workers do not incur. Blind workers are not subject to the SGA test, but are phased out based on "countable income." The blind can compute "countable income" by deducting from their earned income any expense reasonably attributable to earnings whether or not sighted workers bear the same expense and irrespective of whether the expense might also relate to non-work activity such as independent function in the home. An example is the cost of buying and maintaining a wheelchair. Disabled individuals had the benefit of similar exclusions under the state administered Aid to the Disabled program prior to SSI, but have been inadvertently disadvantaged under SSI.

Current SSI regulations create substantial obstacles to employment, particularly where expensive support, such as a device or equipment necessary for mobility are needed. If those expenses cannot be deducted from earnings, the likely accompanying loss of SSI eligibility due to the earnings is a work disincentive. If people are to be encouraged to be productive within their capacity, the net benefit of working (earnings, SSI and Medicaid) must exceed the cost of working (expenses related to work and lost SSI and Medicaid eligibility) to make work worthwhile. Disregarding all expenses that are reasonably attributable to earnings in computing "countable" earnings, permits the disabled person to retain a reasonable net disposable income without sacrificing essential Medicaid coverage.

The major problem with current treatment of expenses incurred by disabled people who work is the narrow definition of "work-related." Not all work-related expenses are covered, only those related solely to work and not incurred by the non-disabled person doing the same job. The scope of the disregard is therefore very narrow. Only those items not utilized by other workers and which have no bearing on the non-working life of the disabled individual can be deducted. Special requirements of severely disabled people, not needed by the able-bodied, will generally also be necessary for non-work life as well, for example, a motorized wheelchair or adapted motor vehicle or an electronic comuunication device or braille. These devices must be available to the disabled to enable him to work, but their use is not limited to working hours. Attendant care is another example. The worker must be dressed whether to go to work or to function off the job as well. At present, costs of these dual function accessories or services are disallowed as deductions.

C. Cost analysis of H.R. 12927

It seems to us that the figures submitted by HEW, the Congressional Budget Office and the House Ways and Means Committee (varying from $80 million to $120 million) are inadequate reflections of the economic effects of H.R. 12972 for they do not include an analysis of a number of economic benefits in the bill.

1. Reduced SSI benefits

None of the estimates seem to reflect an analysis of reduced SSI payments resulting from increased earnings by those on SSI. Reductions in SSI payments are generated by any earnings above $65 a month. At earnings of $240 a month, a recipient would have about $101 a month of benefit from SSI. If he or she earned $400 a month, the SSI benefit would be reduced to about $21 a month. Thus, SSI would have nearly $1,000 annually on each case of that kind, in which removal of the notch lead to increased earnings.

In addition, a few severely disabled SSI recipients who currently have no earnings would seek and find specialized work at about $400 a month ($4,800 a

year) because, while jobs exist at around $5,000 a year, in today's labor market few jobs actually exist at $3,000 a year. For such people the net savings to the taxpayer will exceed $2,000 a year.

If it is assumed that about 12 percent of the SSI disability population can and would work with work disincentives removed, as data previously cited indicates, then savings could amount to about $150 million to $200 million (200,000 individuals including those with some present earnings × $700+ per case).

2. Title II savings

Presently, 35 percent of the disabled people receiving SSI also receive disability insurance. H.R. 12972 amends only SSI and maintains the rigid SGA test for persons seeking to qualify under Title II. If an individual with both SSI and Title II benefits can net more income by availing him- or herself of the work incentive provisions of H.R. 12972, though Title II benefits may be lost because earnings limits are exceeded, that choice may be desirable. There will be savings under Title II in those cases and no increased SSI payments. For example, a single individual with no earnings and a $2,400 Title II annual benefit would have net countable SSI income of $1,920 since $480 of the $2,400 a year would be disregarded. Since the total SSI benefit is $2,280, he would receive $360 in SSI or $30 a month. Total income would be $2,760 plus Medicaid or Medicare benefits and possibly $480 a year of food stamp benefits. If $400 a month were earned, the SSI benefit would be $280 in addition to the $4,800 of earnings leaving the person $5,080 of income plus food stamps at $480 and Medicaid. The net benefit to the individual choosing to work in that circumstance would be about $2,000 and work would be advantageous. Title II benefits of $1,920 would be eliminated and SSI benefits would be reduced from $360 to $280. Total savings to Title II and Title XVI would be about $2,000 per case.

3. Reduced health care utilization by the working disabled individual

There is some evidence from a recent study at Baylor Medical School using a very small sample, that severely physically disabled people who receive medical and vocational rehabilitation and work, have reduced utilization of hospitalization. Their rate of hospitalization after rehabilitation and becoming employed is about one-half that of those severely disabled people with the same characteristics who do not work. The study only suggests savings, and we have not attempted to calculate what those might be. The savings would be for Medicare or Medicaid depending on the eligibility of the person for SSI and/or Title II. These potential savings to Medicaid should be noted as well when assessing the Medicaid costs of H.R. 12972 and S. 2505.

4. Increased tax revenue

If 10% of SSI recipients not presently working were employed, tax revenues from that earned income would offset some program costs.

5. The CBO assumption of 120,000 new SSI cases in the first year may be high

In estimating the costs of H.R. 12972, the CBO has assumed that there would be about 120,000 new SSI cases as a result of the enactment of H.R. 12972. These cases would be individuals who met the medical and vocational tests of SSI eligibility and whose earnings are currently more than $240 but less than $443 a month.

The question is how many individuals who meet the medical criteria are nevertheless earning more than $240 a month but less than $443. Since the benefits of food stamps and Medicaid are $1,000 a year in real value, and since the combined earned income and SSI of the eligible person earning say $230 a month is close to $4,000 annually, of which approximately $2,880 is earned, the net economic value of meeting the SGA test is close to $2,120 annually, or more, with supplementation. That being true, it is unlikely that there are many disabled individuals, otherwise meeting SSI eligibility requirements, who choose to be substantially gainfully employed for between $2,800 and $5,400.

E. Relationship of title II to title XVI—Why a change only in title XVI is justified

Title XVI is a replacement for the Federal-state income support program for the aged, blind and disabled. It is a Federalized income support program for those populations. Like other income support-poverty programs, eligibility is condi-

tioned on the amount of income and assets of the applicant. Thus, SSI, like its predecessor, has an earnings limit inherent in its eligibility rules. Today, that limit enables an aged or blind recipient to earn $443 before SSI benefits totally cease. H.R. 12972 simply applies that existing earnings limit in SSI to disabled persons.

Title II is not a program of income support to alleviate poverty with eligibility based on poverty. It is a social or income insurance program to protect workers with the requisite work records who become unemployed due to disability. In a sense, one buys such insurance as one works under employment which is covered by Social Security. There has never been a limit on unearned income as a precondition to receipt of benefits under Title II. Title II does impose a "retirement test," a limit on earned income which indicates withdrawal from the work force. This retirement test for persons under 65 (not claiming disability) is $3,240 a year or about $270 a month.

In addition programs of income support including SSI, have two major purposes: (1) providing support necessary for subsistence, and (2) encouraging work and exits from poverty. H.R. 12972 is totally consistent with these purposes, though current SSI disability law is not. Title II is essentially an old age and disability pension program and has as its goal adequate income insurance for persons who are retired. Thus, work incentives, while significant for some part of the Title II population, are not basic purposes of the program.

F. The inadequacy of trial work and individual plans of self-support

Under current SSI law, a disabled person can have earnings in excess of the $240 limit during a nine month trial work period. However, when that period ends, the individual faces the problem of losing SSI and Medicaid eligibility if those earnings are maintained. Trial work periods may be less necessary therefore, if H.R. 12972 is enacted. Certainly, the trial work provisions are not adequate substitutes for H.R. 12972.

SSI law also allows disabled individuals to earn over the SGA earnings limit of $240 and the blind to earn above the earnings provisions of SSI (about $443 can be earned at the maximum) without limit, if a plan for achieving individual self-support has been developed for those individuals in which higher earnings represent a step to full independence. Those plans have seldom been developed, have few if any standards to guide their development and, where they exist, are limited in duration (about 18 months). H.R. 12972 provides clear earnings rules, which would apply to all disabled SSI recipients, and would not be time-limited. We believe it can help achieve what the present "self-support plans" have not.

III. H.R. 10848—PRESUMPTIVE DISABILITY UNDER SSI

H.R. 10848 is yet another bill developed in response to the injustice incurred by the disabled as a result of the Substantial Gainful Activity test. H.R. 10848, as well as H.R. 12972 and S. 2505, recognizes the additional hardships faced by the disabled under the Supplemental Security Income program due to SGA. Our thirteen organizations strongly endorse this bill. The negative effects of losing eligibility and the inability to be reentitled to benefits for several months discourage disabled SSI beneficiaries from attempting to obtain competitive employment. The House report states the case clearly.

Trends within the field of developmental disabilities within the last several years have been toward providing increased opportunities for greater independence and integration into the mainstream of the community as individual functioning permits. This has been pursued not only with the knowledge that achievement of such things is possible but also with the belief that disabled persons have a right to maximized opportunity as well. However, many disabilities (mental retardation, blindness, cerebral palsy, epilepsy, autism) generally are not reversible. Even with the provision of increased services and with an increasingly prevalent attitude of support and optimism toward disabled people, the reality is ultimately that a disabled individual who works does so in spite of his/her disability and not because the disability is no longer present. Even with increased skills and the ability to adapt, there is a continued risk of failure as the disabled person endeavors in areas which have not previously been experienced and which place greater demands upon him. Moreover, jobs paying substandard wages or part-time jobs are those with the fewest protections, fringe benefits, etc.

Rules which presently govern SSI policy provide a negative incentive to those disabled individuals who have gained skills which would seem to indicate readi-

ness to enter either the sheltered or competitive job market, because reentry into SSI takes so long. It is especially in the area of employment that the risk is great. To sustain one's self in a full-time job requires the presence of adaptive ability on many levels and is far more complex than the mere performance of a specific task. Ability to relate appropriately with supervisors and co-workers, ability to accept criticism and modify one's performance, ability to produce on a schedule and maintain acceptable quality of production, ability to deal with interruption and other problems as they arise—are only some of the areas in which an employee must be successful in order to remain employed. These are also areas in which success is extremely difficult to measure or predict in a clinical setting or work activity setting which is preparatory to actual employment. The reality is that parents of disabled individuals and others who would influence their futures are reluctant to encourage competitive employment for fear that failure on the job may occur and, because of that work attempt, ineligibility for SSI benefits will result.

In light of the above considerations, the current inclination of some disabled persons to avoid competitive employment is understandable. Many opportunities for disabled persons are tied to SSI as an eligibility factor (for example, Medicaid benefits). Avoidance of unknowns which might jeopardize access to these opportunities can only be considered pragmatic. H.R. 10848, in providing a reasonable time for automatic reinstatement following termination of employment, would help eliminate the necessity for choosing among goals which should not be mutually exclusive. Potential for a full and productive life cannot be realized if a decision is forced which excludes one of the major contributing aspects to such a life; the opportunity to pursue a vocational goal.

The Congressional Budget Office has determined that the costs associated with H.R. 10848 are negligible. In addition, under the provisions of H.R. 10848, any persons reapplying for SSI benefits who are later determined to be not disabled must pay back all SSI payments received since reapplication. Thus, H.R. 10848 is a simple, low-cost way of eliminating a severe penalty placed on those disabled persons attempting to work.

IV. S. 2505—MEDICAID COVERAGE FOR CERTAIN HANDICAPPED INDIVIDUALS

S. 2505, cosponsored by Senators Javits, Dole, Moynihan, Stafford, Randolph, Eagleton, Brooke and Hathaway has been eloquently justified by Senators Javits and Dole in their introductory remarks in the February 6, 1978, Congressional Record.

Senator Javits stated that S. 2505, "simply removes the 'substantial gainful activity' test currently applicable only to the disabled, for purposes of receiving Medicaid." Our organizations strongly support this idea but are seriously concerned about the possible narrow interpretation which could be applied to the language contained in the bill. There is no question that S. 2505, as written, would be of tremendous potential assistance to persons with substantial physical disabilities, such as cerebral palsy, who require personal assistance or attendant care to get in or out of bed, dress, or bathe. However, depending on how the language is interpreted, other disabled persons with substantial medical and equipment costs may find they are denied the benefits of S. 2505 simply because they do not require an attendant in order to perform their daily functions.

The loss of Medicaid upon earning $240 per month (the current SGA income limit under SSI) is a severe work disincentive not only for persons needing attendant care but all disabled persons having high health expenses and/or recurring medical problems because of their impairment.

The cost of living is greater for disabled or blind individuals than for other individuals. Disabled persons often need home health services, wheelchair purchase and repair, orthopedic appliances, regular physical or mental therapy, bowel and bladder care equipment, prescription drugs and other services covered under State Medicaid programs to assist them in meeting their daily needs. The cost of these services and equipment traditionally has been very high. A 1977 Social Security Administration report shows health care out-of-pocket costs at $800 a year or 75 percent more than for non-disabled persons, with personal care in the home being a substantial cost element for the disabled.

Faced with the loss of not only their SSI benefit but also their medical benefits, disabled persons are forced to remain unemployed or underemployed, thereby remaining on the SSI roles at great cost to America's taxpayers.

In light of the above considerations, the 13 national organizations represented by this testimony strongly suggest that the following substitute language be in-

corporated as clause (viii) in S. 2505: "who were once determined to be disabled due to a medical impairment in accordance with Section 1614 of Part A of Title XVI of the Social Security Act (Section 1382c, Title 42, United States Code), and continue to have the same physical or mental impairments which were the basis of their disability determination."

With this substitute language, S. 2505 would eliminate the use of the SGA criteria in Medicaid eligibility determinations. Medicaid eligibility for current or former disabled recipients of SSI would be based solely on the medical criteria established under Title XVI and financial eligibility standards established by the state under Title XIX.

The language currently contained in S. 2505 could potentially result in a severely lmited beneficiary population, i.e., persons in need of attendant care. Even for this population the benefits available under S. 2505 are not as substantial as they may appear at first glance. For example, home health aid services are a mandatory Medicaid service but each state has established ceilings, many of which are quite stringent, on the number of home visits allowed.

A few states do recognize attendant care as an optional Medicaid reimbursable service. In some states, attendant care is included under the definition of home health aid services and therefore subject to the ceilings on the number of visits allowed.

Additionally, S. 2505 would only apply to the 32 states which have medically needy spend down provisions.

For these reasons, our organizations view S. 2505 as a necessary complement to H.R. 12972 and H.R. 10848. We urge the passage of all three bills and feel that together, the bills will eliminate major inequities and disincentives for those disabled persons desiring to work.

Mr. Chairman, we thank you and members of the Subcommittee for the opportunity to present our views today.

Senator MOYNIHAN. There is one last person who is not formally a witness but who has asked to be heard. We have a few moments and we would be most happy to hear Miss Denise Darensbourg.

Miss Darensbourg, we welcome you to the committee.

STATEMENT OF DENISE DARENSBOURG

Ms. DARENSBOURG. Thank you. I would just like to bring out my view of whom I represent.

My name is Denise Darensbourg and I represent the retarded. I was born in Louisiana and I am urging you to help me help the retarded and all disabled persons and also realize, I think that we should realize what a job really means to them—not only for the money but to gain encouragement and independence to learn about the community.

And because a friend of mine has just gotten a job that paid him more than his own benefits and he was really glad that he was no longer an SSI recipient, because he had always wanted a job.

Not many are as lucky as my friend, because some day I would like to work myself, but now I could not possibly afford to. I also do not think it is fair to want to work and know that we can earn only $240 SGA a month.

What if I were making $240 a month? I would have less monthly income than now. I would lose my attendant. I would lose my medical. And I would be in an institution.

Senator MOYNIHAN. Are you a Californian?

Ms. DARENSBOURG. Yes.

Senator MOYNIHAN. That is medical.

Ms. DARENSBOURG. Well, I was born in Louisiana, yes, but I live in California now.

Also, if my friends had earned $240, they would lose and be cut off medicaid and be institutionalized also, and if somebody were to get

training for a job or a trainee, knowing that this person would not be eligible, would be another loss.

I just feel that the retarded, along with other disabilities, should be given a chance because we can work, and want to. Social security income programs, I feel is just most of the time full of bullcrap.

The disabled would probably handle things better if they ran the program themselves. I just think that the disabled should be given a chance. It is also very hard to see how much trouble it would cause, because I want to see my friends succeed, because we are equal and if we do not get what we want, then we will fight for it. You can recall our 504 demonstration last year.

So, we hope you will take into full consideration as to what we are really doing.

Thank you very much.

Senator MOYNIHAN. Well, how very nice of you to add this final brief statement. You are the only witness today who finished before the red buzzer went off, and we thank you very much for that.

But I now have—more bells will go clanging in just a moment—I am going to have to go to vote.

And so, if there are no further witnesses, I will declare this hearing adjourned and thank the audience for being so cordial.

[Thereupon, at 7:30 p.m., the subcommittee recessed, to reconvene at the call of the Chair.]

[By direction of the chairman the following communications were made a part of the record:]

STATEMENT OF GERALD JONES, LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. Chairman, and distinguished members of the Subcommittee on Public Assistance, I am pleased to have the opportunity to comment on H.R 12972, to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income (SSI) benefits program.

The Paralyzed Veterans of America (PVA) is aware of the need to remove work disincentives from certain federal programs serving the disabled. In fact, employment remains of vital importance to our organization since eighty-seven percent of PVA's membership of approximately ten thousand is unemployed.

The obstacles facing severely disabled individuals who are considering employment often seem insurmountable when faced with the reality of losing eligibility for medical care, medicines and supplies and prosthetic appliances. Yet, many disabled persons have such a strong desire to be gainfully employed that they sometimes overextend themselves and hope their health will allow them to continue working on a regular basis.

The Subcommittee members surely recognize that many disabled individuals do not want to be totally dependent upon the federal government for financial assistance. The disabled have the same needs in life as the non-disabled population. These needs include self esteem, financial security and the satisfaction of being a productive member of society.

PVA is of the opinion that H.R. 12972 is an excellent means for eliminating some of the work disincentives in the SSI program. The specific disregard, under section 1, of certain amounts of earned income combined with a gradual reduction in SSI benefits to encourage disabled recipients to work is commendable. The exclusion from countable income of the first $65 of earned income plus 50 percent of remaining earnings and any work related expenses would be a considerable improvement over current law. It appears that increasing the monthly substantial gainful activity (SGA) limit from $230 to $443 would substantially increase the number of disabled recipients who would be seeking employment would be confident and secure because the possibility of losing medicaid coverage would not be as great.

For example, the major concern of those PVA members who regain employability and leave the Veterans Administration (VA) disability pension program

is the loss of medical care protection and medicines and supplies which they will require on a regular basis throughout their lifetime. The cash benefits received from employment in many instances are less or equivalent to those received from the pension program. However, the motivation to become self-sufficient would override this fact when the disabled recipient becomes cognizant of the continued availability of medical care (Medicaid).

Section 2 of H.R. 12972, would provide for the exclusion or disregard from any earned income of an amount equal to expenses reasonably attributable to the earnings of income in determining the monthly SSI benefit for disabled applicants and recipients. This provision would be of primary importance to catastrophically disabled persons such as quadriplegics and paraplegics who experience extraordinary expenses as a result of their disability.

Many severely disabled persons do not operate a motor vehicle and would experience unusually high transportation costs in traveling to their place of employment. These persons must rely on taxi cabs or motor vans equipped with wheelchair lifts to transport them when a family member is not available for this purpose. The cost would be prohibitive in most cases for a severely disabled person considering employment.

The committee report accompanying H.R. 12972, indicates that the experience in disregarding work-related expenses of blind applicants and recipients has demonstrated that such a provision can be administered in a reasonable and responsible manner. Fewer than one-third of the blind with earnings, claimed work related expenses in excess of $100 a month. This indication should provide credence to the evidence that the costs for retaining the disregard of the work-related expenses would not be excessive.

Section 2 of H.R. 12972 would also provide for the exclusion or disregard from earned income of the costs of attendant care necessary for employment in determining eligibility or any amount of SSI benefits received for certain severely disabled or blind applicants and recipients. This provision is essential to catastrophically disabled individuals if they are to achieve some level of self-support.

Catastrophically disabled individuals in many cases require attendant care to accomplish the activities of daily living. The attendant assists with bathing, dressing, feeding and transporting of the disabled person. To fail to recognize the attendant care provision as an incentive to work would be a great injustice. Any services that can be provided to enable severely disabled individuals to remain free of an institutional setting should be encouraged, since in most cases, a cost savings would be experienced by the federal government.

The Paralyzed Veterans of America is appreciative to the Committee for permitting our organization to present its views on H.R. 12972. In our opinion, the bill is one of the most meaningful pieces of legislation to appear before you, and we trust that it will meet with your approval.

Thank you for your attention.

STATEMENT OF REUVEN SAVITZ, DEPUTY ADMINISTRATOR/COMMISSIONER, INTERGOVERNMENTAL RELATIONS, NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

I wish to convey on behalf of the City of New York and New York City's Human Resources Administration, our views regarding two legislative proposals which go a long way toward making the Supplemental Security Income Program more equitable.

Before I outline the specifics of these bills and why New York City strongly supports them, I want to underscore the fact that for many disabled individuals, SSI and medicaid are quite literally their means for survival.

Yet under the current SSI structure the use of "Substantial Gainful Activity" (SGA) as a criteria of whether or not a person is disabled, has created strong disincentives for many of these people to remain employed.

For those quadriplegics, for example, who have mustered the courage and stamina to work, a home attendant is crucial to their ability to be employed. Yet under the current SSI program, should one of these people manage to earn above $240 a month he is in danger of losing both SSI benefits and medicaid eligibility. The result would be the loss of his home attendant, often a requisite both for survival and employment.

For many of these people their psychological survival is predicated upon an ability to work. To create disincentives for them to do so, as the present SSI program does, contradicts the mandate of the Rehabilitation Act of 1973 which requires development and implementation of comprehensive state plans for the

vocational rehabilitation of handicapped individuals so that they may prepare for and engage in gainful employment.

H.R. 12972, particularly, would move toward fulfilling this mandate. This bill will make several changes in the SSI program, the most significant of which is to modify the SGA test so that an employed individual could still be considered disabled and entitled to assistance despite a higher level of income than is currently permitted.

Secondly, the bill would require the disregard of any ordinary and necessary expenses incurred by an SSI applicant or recipient which are also reasonably attributable to employment.

Finally, it would permit the disregard of attendant care costs necessary for enabling blind and disabled SSI recipients to work.

H.R. 10848 would also allow individuals, who had ceased to be considered disabled because they were found to be engaging in SGA, to be presumptively eligible for SSI if they reapply for these benefits. By presumptively considering certain persons disabled, this bill would assure that everyone who needs SSI benefits will receive them in a timely fashion.

We would like to detail for you why New York City strongly supports both these proposals, as well as to outline for you some of the potential cost savings to New York City from this legislation. In the latter portion of this statement I will make some suggestions that we feel would make this legislation even better.

The New York State Department of Labor estimates that as of July 1978, there were about 54,000 disabled persons registered with them for employment.

Of that number there were only 1,113 placed in jobs. This number doesn't even reflect those disabled people who have become discouraged from seeking employment for fear it would jeopardize their SSI eligibility. Yet despite the obvious desire of many Handicapped individuals to work, the obstacles they must overcome to do so are enormous.

Let me illustrate the present catch 22 situation with a hypothetical example:

Under the present situation a disabled individual earning $10,000 a year, with home attendant costs of $12,000 would be ineligible for SSI because this individual, would be considered to be engaged in substantial gainful activity.

Although this individual, might still be eligible for Medical Assistance, according to NYS regulation he would have to spend $3,380 toward medical costs before receiving Medicaid. This assumes taxes and other work related expenses of $3,520 which have to be deducted from gross income in determining medicaid eligibility.

The results after subtracting taxes and other work related expenses from income, and after spending down to the $3,100 allowable medicaid level, is that this person is left with income of only $3,100 a year to cover living and other expenses.

Based on this scenario an individual would clearly be better off not working.

By remaining unemployed the individual could be accomplish the following:

> Receive SSI benefits of approximately $250 a month or $3,000 a year in New York State as well as receive full medicaid coverage. Therefore, by not working the individual receives only $100 less than if he did work and is in no jeopardy of losing his SSI status. Hardly an incentive to seek employment.

By contrast, under HR 12972, the same individual would now be eligible for SSI since the individual could deduct work related expenses, income taxes and cost of attendant care from countable income. Including deductions for home attendant care, the individual would now end up with a gross income of $11,910, including the SSI grant of $3,000 in New York State. In addition to receiving greater income as a result of his labor he would achieve a sense of freedom and dignity heretofore out of reach for many disabled individuals. However, we do wish to add a cautionary note. We believe that some additional thought might be devoted to the SSI benefit formula when the payment of that benefit, after all medical services has been assumed by Medicaid, provides a total personal spendable income in excess of that earned by the recipient, as in the case illustrated above.

It should also provide some fiscal relief to localities who now bear the burden of providing general assistance grants to disabled people who under this proposed legislation, would now become eligible for SSI.

Although we in New York City cannot say for certain how many individuals would be removed from our home relief rolls as a result of this legislation, we can make the assumption that the 1,000 single and employed individuals who are ineligible for SSI but who receive supplementary HR grants of $50 a month, ($25 in city funds), are drawn largely from the disabled population. Therefore, we can say that NYC would save about $300,000 in fiscal year 1980.

The resultant shift in this population from HR to SSI will also result in a savings in NYC's cost of medical assistance, since SSI recipients, unlike HR recipients, are eligible for Federally funded medicaid. Since current medicaid costs for the average HR single adult is about $1,500 a year, and since the city's share of this person's medicaid costs will fall from 50 percent to 25 percent, there will be a savings to NYC of approximately $375,000 a year.

Although, as I've already stated, we strongly support both these legislative proposals as efforts to increase work incentives to the disabled, the SSI program itself contains some further deficiencies which also require legislation.

Firstly, we would like to see the Social Security Act amended to provide for reimbursement of the State and local costs of public assistance provided to AFDC recipients transferred to SSI.

In the case of AFDC recipients transferred to SSI the public assistance grant provided to the SSI applicant during the pending period, is treated by the Social Security Administration as income and is deducted from the first retroactive SSI check.

Therefore, the State and local shares of AFDC are not returned and the whole benefit accrues to the Social Security Administration.

In fact, you might say that in this respect State and local governments are forced to subsidize SSI.

If the localities and States were reimbursed for these costs, the savings to New York City could amount to $650,000, a year.

Even more paradoxical than the current situation with AFDC recipients, who become SSI eligible, is the situation of reactivated SSI cases which prior to reinstatement received General Assistance grants.

The scenario works this way. An SSI recipient, for reasons of increased income, administrative error, loss of contact with the Social Security Administration, etc., ceases to receive SSI payments. Rather than close the case, the Social Security Administration places it in a non-payment status. The recipient, then reapplies for SSI and must wait for a decision. In the interim, he applies for General Assistance under a State program. Such assistance is granted pending receipt of the initial SSI payment. When the State (or locality) seeks to recoup payments it made out of the first SSI check, under the Interim Assistance payments provision of Section 1631 (g) of the Act, tht SSA denies the applicability of this section interpreting the law to apply only to new SSI applicants. Reactivated cases are not, according to SSA, new applicants since their cases were never closed. As a result of this interpretation, recipients receive a double payment of benefits at a substantial cost to the State; one from the State and another from SSA.

To compound this situation even further, states cannot recover these payments since under law the Social Security Administration is not permitted to attach a person's income from SSI.

If this clearly irrational situation is remedied, New York City and other localities could stand to save a sizeable amount of money.

Specifically, if about 200 people are reactivated in New York City each month, and assuming the tax levy portion of the HR grant at $400, we would save almost $1 million.

These are our concerns. Yet significant as they are, they in no way hamper our enthusiasm for the two bills we are discussing today.

For the handicapped who want to work, passage of HR 12972 will finally mean removal of the Damoclesian sword which has been hanging over their heads since the inception of the SSI program in 1974.

With the passage of this legislation, quadriplegics and others will now have only their handicaps to overcome, not a Government bureaucracy as well.

We in the City of New York and the Human Resources Administration roundly applaud the sponsors of these bills.

We urge the Congress to enact this legislation and thereby to redress some of the governmental deterrents which increase the already heavy burdens borne by handicapped people in our country.

Statement of American Coalition of Citizens With Disabilities, Inc., Frank G. Bowe, Ph. D., Director

My name is Rita A. Varela, Special Projects Manager of the American Coalition of Citizens with Disabilities, an umbrella group of over seventy-five local and

national organizations of and for disabled persons. ACCD greatly appreciates the opportunity to address this Subcommittee and stress the urgency of the issues you are discussing today.

An alarming number of the disabled persons who receive Supplemental Security Income (SSI) face severe economic, psychological, and in some cases medical hardships due to disincentives built into current law. The bills you will be considering, H.R. 12972, H.R. 10848, and S. 2505, could remove major barriers to employment and productivity among disabled citizens, and thus reduce their dependence on public assistance. The Coalition strongly supports these bills.

THE ECONOMIC HARDSHIPS OF DISINCENTIVES

As the testimony submitted by the Panel on Blindness and Disability demonstrates,[1] though 12-15 percent of the disabled persons who receive SSI feel they can and should be working, the program in many instances impedes their participation in the job market by making employment more costly than unemployment. Under the current SSI program, a disabled individual who earns over $240 a month is judged to be engaged in substantial gainful activity (SGA) and therefore becomes ineligible for SSI, Medicaid, and, in some states, Title XX benefits.

The SGA test for persons who are blind or aged, however, differs. For them, the SGA limit is set at $443 a month; and for every two dollars earned between $240 and $443 a month, one dollar of benefits is deducted.

Given the uncertain state of our economy, the ever-present problems of inflation, and the fact that disabled individuals must surmount considerable environmental and attitudinal barriers in order to establish careers, it is in the clear interest of every cost-conscious American taxpayer to have programs which ease an individual's path into the labor force. What we have now, however, is a program which makes independence risky, not rewarding.

Disabled SSI recipients who want to work must often consider such issues as whether they will be able to afford housing and living expenses if they lose their benefits, and whether their salaries will be eroded as a result of their medical, transportation, and attendant care costs. The current program, in effect, makes independence punitive.

Access to attendance care services, medication, and adaptive equipment is often a prerequisite to independence. Such efforts as New Options, the transitional living program at the Texas Institute for Rehabilitation and Research, suggest that a large number of severely disabled individuals who are currently in institutions can live independent, productive lives if they have appropriate support services.[2] We must also remember that medical and technological inovations continually broaden the prospects and abilities of disabled persons. Epilepsy and spinal cord research are two of the areas in which we have seen important advances. Thus, we may be pouring into research to make people more independent and job ready, and then discouraging them from entering the job market. We may be investing in progress with one dunding system and inhibiting it with another.

H.R. 12972 would redress inequities in the following ways: First, it would revise the current SGA test and make it comparable to the benefits available to blind and aged citizens. Second, it would disregard from computable earnings those expenses which are "reasonably attributable to the earning of income, such as 'work-related expenses,' as is currently done for blind applicants . . ."[3] Blind and aged recipients can deduct certain expenses from the earnings which are counted as SGA. The cost of such items or services as special equipment and attendant care would be allowable even if they were required not merely for work adjustment but for normal daily function as well. An electric wheelchair is an example of an item which would be required for both employment and daily living.

---

[1] Testimony of the Panel on Blindness and Disability regarding H.R. 12972, H.R. 10848 and Related Legislation, submitted to the Subcommittee on Public Assistance of the Finance Committee, U.S. Senate, Sept. 26, 1978.

[2] Susan Pflueger, *Independent Living*, Institute for Research Utilization, Washington, D.C. December 1977.

[3] "Elimination of Work Disincentives Under SSI Programs," Report of the Ways and Means Committee, U.S. House of Representatives, July 12, 1978.

THE PSYCHOLOGICAL HARDSHIPS OF DISINCENTIVES

The disincentives in the current program often forces severely disabled individuals to choose between the risks of independence and the security of bleak subsistance. Many of you have heard about the anguish which that choice can cause. In California, a woman who had muscular dystrophy sought to supplement her income by operating an answering service from her bedside. She depended on SSI to help cover her living, medical, and personal care expenses. The woman was informed that she had become ineligible for benefits. Rather than face the prospect of institutionalization, she committed suicide in February, 1978. Our office has a copy of the recording she made before she died. Within the last week, our office has also learned of two suicide attempts which are linked to the disincentives dilemma. For obvious reasons, we do not want to bring undue attention to these matters during our testimony. We will, however, provide additional information to the Subcommittee staff upon request.

H.R. 12972 would help eliminate major barriers to independence. Similarly, H.R. 10848 would remove an additional disincentive—the fear of being without a job and without benefits. Under current law, an individual who has performed SGA loses their disability status. If a disabled individual becomes ineligible by virtue of SGA and subsequently loses their job or suffers a loss of earnings below the SGA level, they must reapply as a new applicant to qualify for assistance. Processing applications for SSI eligibility can take several months. Disabled persons with high medical or personal care expenses, therefore, must weigh the possibility of losing life-support services before they decide to seek employment.

H.R. 10848 would reduce the disincentive associated with the lengthy disability determination process by providing that an individual will be considered presumptively disabled if he or she has lost their disability status within the last five years as a result of SGA. This reinstatement provisions would ensure that far greater numbers of disabled individuals would base their vocational decisions on what they feel they can do, not on what they fear they might lose.

THE MEDICAL HARDSHIPS OF DISINCENTIVES

ACCD also strongly supports the objectives of S. 2505. Certain disabled citizens incur higher medical costs than non-disabled citizens do. The costs of prescription drugs and home health services can be prohibitive, and eligibility for Medicaid can mean the difference between dependence and independence. Th SGA test which is currently applied to disabled persons, should be removed in considering Medicaid eligibility. We would not, however, want to see the language of S. 2505 to be construed as applying exclusively to the need for attendant care. As noted earlier, new types of medication and therapeutic intervention are being developed continually. ACCD hopes this Subcommittee will closely review S. 2505, and adopt the language suggested by the Panel on Disability and Blindness.

CONCLUSION

This unusual experiment we know as America was conceived as progress. Its course in history was set by men who sought to further the possibilities for liberty, the pursuit of happiness, and the advance of science, medicine, industry, and all forms of creative exercise. There should be no disincentives problem in America.

APPENDIX

QUESTIONS SUBMITTED BY SENATOR MOYNIHAN WITH RESPONSES FROM THE SOCIAL SECURITY ADMINISTRATION

COST ESTIMATES OF H.R. 12972

Question. What is the Administration's estimate of the cost of this bill? Do you know if this differs from the Congressional Budget Office (CBO) estimate? If so, how? What were the premises of these estimates as to how many people, now working, would be added to the rolls? Is the estimate based on the current number of persons now working? Would not that number increase sharply if the income limits are raised?

Would you submit for the record a cost estimate that assumes that (a) 25 percent, (b) 50 percent, (c) 75 percent, and (d) 100 percent of the current denials because of substantial gainful activity (or capacity for SGA) are approved?

Answer. The attached paper "Assumptions Used in SSA's Cost Estimates of H.R. 12972" gives the Administration's cost estimates and describes the bases for the cost estimates. As explained in that paper, the estimates of numbers of people affected by H.R. 12972 were derived from data compiled by SSA's Office of Research and Statistics in a survey of severely disabled persons who have earnings.

The CBO developed cost estimates for titles XVI and XIX only; those estimates were somewhat higher than our projections for titles XVI and XIX costs. It is our understanding that the CBO estimates were based on the same data base as used by SSA; however, CBO assumed a higher participation rate for new eligibles. Because it is difficult to predict with any real precision just how many people will actually take advantage of a liberalization in the SGA definition, we also developed a range of cost estimates to demonstrate the effect of different rates of participation.

With regard to the last part of the question, it should be noted that a cost estimate for H.R. 12972 cannot be made solely on the basis of current denials of persons who engage (or have the capacity to engage) in SGA. Significant additional costs would arise because people who have never applied for social security or SSI disability benefits, and who therefore are not counted among the current denials, would file and receive benefits.

The cost estimates assume that almost all of the people now being denied SSI disability benefits because of SGA would become entitled to SSI under H.R. 12972. The estimates further assume that about two-thirds of the people now being denied social security disability benefits because of SGA would eventually become entitled under the bill to those benefits. Approximately 10,000 to 15,000 people per year

are currently being denied social security disability benefits because of SGA. The corresponding estimate for the SSI program is about 3,000 people. (Many of the SSI denials are included in the social security denials because many people file for the benefits concurrently.) These estimates are based on statistics on denials over the past several years.

As already mentioned, additional cost can be expected because of new eligibility of people who currently do not apply for social security or SSI disability benefits. A rough estimate is that about one-half of the projected social security and Medicare cost of H.R. 12972 is due to new eligibility of those persons.

ASSUMPTIONS USED IN SSA'S COST ESTIMATES OF H.R. 12972

It is very difficult to estimate, with any precision, the additional payments that would be made if H.R. 12972 were enacted. The resulting costs depend on the behavior of disabled persons with earnings above the level of substantial gainful activity (SGA), which is currently $240 per month.

The cost estimates of the Social Security Administration are based on the following assumptions:

A. Persons newly eligible for SSI payments under H.R. 12972:

1. Assuming enactment in October 1978, an estimated 100,000 disabled persons with monthly earnings of $240 or more will become immediately eligible for supplemental security income (SSI) payments. This estimate is based on a survey of severely disabled persons who have earnings. In making the estimate, it was assumed that work-related expenses and costs for attendant care would average $75 per month.

2. During the first year, 15,000 of the 100,000 newly eligible persons will qualify for SSI payments. By the end of 5 years, about half of the newly eligible persons will have qualified for SSI payments. The average Federal SSI payment for newly eligible persons coming on the rolls is assumed to be $75 as of October 1978.

3. About 60 percent of the newly eligible persons who enter the SSI rolls will subsequently reduce their earnings to no more than the SGA level for disability insurance (DI) benefits under title II, or stop working entirely, and then apply for and become entitled to DI benefits. The subsequent entitlement to DI benefits will occur, on average, 1 year after entry on the SSI rolls and will make most of the new SSI recipients ineligible for SSI payments. The average DI family benefit payable to these newly eligible persons will be $300 per month for October 1979.

B. Persons eligible for SSI payments under present law:

1. About 40 percent of the present disabled SSI recipients who have earnings will be affected by the provision that excludes work-related expenses from earned income. This is based on SSI program data which show that 40 percent of the present SSI disabled recipients who work have earnings in excess of $65 per month. (Under present law, the first $65 of earnings is already excluded from earned income.) On average their SSI benefits will increase by $64 per month in October 1978.

2. The raising of the SGA level will allow SSI recipients to continue to receive SSI payments when their earnings exceed $240 per month. (Under present law, their SSI payments would be terminated.) We are assuming that about 4,000 cases per year would be affected by this provision. In addition, monthly SSI payments for this group would be $60 per month in October 1978.

DEVELOPMENT OF COST ESTIMATES

As stated in the assumptions, an estimated 15,000 persons will qualify for SSI payments during the first year under the provisions in H.R. 12972. By the end of the fifth year, about 60,000 persons, or about one-half of the newly eligible persons, will be receiving SSI payments and/or DI benefits. Of the 60,000 persons who will qualify for SSI during the first 5 years, about 30,000 persons will be receiving DI benefits under title II because of the enactment of the bill. The estimated amounts of resulting additional payments are shown below. Separate estimates are shown for the amounts attributable to the increase in the SGA level for SSI payments and for the amounts attributable to the exclusion of work-related expenses and attendant-care costs from earned income.

ADDITIONAL PROGRAM PAYMENTS

[In millions]

Fiscal year	SSI payments [1]			DI benefits			Total payments
	Total	Increase in SGA	Work expenses	Total	Increase in SGA	Work expenses	
1979	$33	$27	$6	(2)	(2)	(2)	$33
1980	52	34	18	$30	$20	$10	82
1981	60	38	22	60	40	20	120
1982	66	41	25	90	60	30	156
1983	78	46	32	120	80	40	198

[1] SSI payments represent net costs, after being offset for persons who become subsequently entitled to DI benefits.
[2] Less than $500,000.

Because of the difficulties and uncertainties inherent in the estimates, a range of costs is quoted for each program over the 5-year period covered by fiscal years 1979–83. For SSI, the above figures total $289 million. For DI, the figures total $300 million. Our estimate is that total additional SSI payments in the first 5 years after enactment would fall between $250 and $300 million, and that total additional DI benefit payments over the same period would fall in the range of $250 to $350 million. The long-range cost to the DI trust fund, averaged over the next 75 years, is estimated to range from 0.03 to 0.07 percent of taxable payroll. Increases in the number of persons entitled to DI benefits will also increase costs of the hospital insurance program. The long-range cost to the hospital insurance trust fund, averaged over the next 25 years, is estimated to be 0.01 percent of taxable payroll.

ILLUSTRATIVE LOWER-COST ESTIMATE

To illustrate the effect of using lower assumed rates of increase in the number of additional SSI recipients, an alternative calculation was made. In making this alternative calculation, it was assumed that after the first year the number of additional SSI recipients would increase by only 10 percent per year to about 20 percent of the newly eligible persons by the end of the fifth year, instead of to about half. The resulting costs are show below:

ILLUSTRATIVE ADDITIONAL PROGRAM PAYMENTS, USING ALTERNATIVE ASSUMPTIONS

[In millions]

Fiscal year	SSI payments	DI benefits	Total payments
1979	$33	(1)	$33
1980	41	$30	71
1981	44	38	82
1982	52	45	97
1983	60	52	112

[1] Less than $500,000.

PREPONDERENCE OF DISABILITY APPLICATIONS

Question. In the last 2–3 years about 80 percent of applications for SSI benefits have come from persons claiming to be disabled. Do you see any diminishing of this large number of disability applications in the next 5 to 10 years, or can we expect the pattern of applications to continue more or less as it is?

Answer. Since the beginning of the SSI program in 1974, the number of applications for disability payments has remained relatively constant, at about one million per year. The number of applications for SSI aged payments, however, has declined. Therefore, expressed as a proportion of total SSI claims, disability applications appear to be increasing. Taken alone, however, that figure is misleading.

In making its SSI cost and caseload projections, the Social Security Administration assumes that the number of SSI disability claims will be about a million per year for each of the next 5 years.

INCREASED PROGRAM COMPLEXITY

Question. In the past, the Commissioner of Social Security has spoken out strongly on the need for legislation to simplify the administration of the SSI program. Very little has been done to simplify the program, but there have been some changes that would seem to make administration more complex. I understand that the Food Stamp Reform Act gives the Social Security Administration new responsibilities for administering the food stamp program for SSI recipients, which could result in a major increase in your workload. (Early SSA estimates for fiscal year 1979 indicated a need for an additional 956 man-years.)

Would you tell us, Commissioner, in your opinion, is legislation moving in the right direction or the wrong direction? Can the Social Security Administration continue to absorb new responsibilities without undermining its primary responsibility for the title II social security programs?

Answer. We have recognized from the beginning of the SSI program that many problems flow from complexities that the law imposes on the administration of the program. We believe there is a need for simplification, and we have supported legislation to that end.

Although our basic objections to H.R. 12972 are on the more substantive issues dealt with in the statement presented on September 26, 1978, the bill would add to the program complexities at a time when changes enacted only last year have not yet been fully absorbed. Additional complexities in SSA's programs make the task of providing quality service increasingly more difficult. Whether SSA could absorb new responsibilities, while continuing to administer its current programs, would depend greatly on the nature of the new responsibilities, the lead time allowed for implementation, and the amount of additional resources provided.

With respect to added responsibilities under the Food Stamp Act of 1977, the impact on SSA is expected to be primarily in our field offices—providing SSI households the opportunity to file for food stamps with SSA and providing food stamp offices certain information contained in SSA files. Adjudication of eligibility is expected to remain the responsibility of State food stamp offices. The extent of SSA's involvement will depend on arrangements SSA is working out with the Department of Agriculture. These arrangements will determine the manpower and funding levels required.

With respect to H.R. 10848, we expect only negligible administrative impact.

EVALUATION OF PRIOR PERIOD OF DISABILITY

Question. In determining whether an individual is disabled, what evaluative significance is given, by an adjudicator, to the previous performance of substantial gainful activity which was the basis for the cessation of a prior period of disability?

Answer. An adjudicator does take into account the circumstances of the person's prior disability. Where a prior period of disability has ended because of SGA, disability adjudicators give primary consideration to any special circumstances that might allow a person with a severe impairment to do substantial work. For example, a severely impaired person might be able to work only because of special working conditions; when those conditions are removed or changed, the person is no longer able to continue working. Of course, adjudicators also examine the current medical evidence to determine whether the person's impairment is severe enough to meet the definition of disability in the law. SSA's experience shows that, in almost all situations where an individual engages in substantial gainful activity despite a severe impairment, a finding of disability is established when that work activity stops.

ARBITRARY RESULTS OF H.R. 12972, WORK-EXPENSE PROVISION

Question. The work-expense provision of H.R. 12972 could, I think, have some peculiar results since the question of whether an individual is disabled would depend on the amount of his work expenses. Would you consider the following example and tell me whether it does not, in fact, represent the situation under the bill?

Assume a disabled individual takes a job paying $600 per month which involves work expenses of $80 ($37 in social security taxes and $43 in transportation costs). After applying the work expense and other work disregards, he still falls below the new disability cut-off point established by H.R. 12972. But if his work

expenses go down by only $3 per month (because he moves closer to the plant, joins a carpool, or some other such reason), he will be found no longer disabled. He is working at the same job; he has the exact same medical condition. But one month he is disabled and the next month he is not disabled—simply because of a 10-percent a day change in his carfare.

Answer. The above example would result in a finding that a person is not disabled. In the example, the present law work disregard of $65 per month plus ½ of the earnings above that amount would be applied first to the $600 per month earnings for purposes of determining substantial gainful activity (SGA). Then the $80 of work expenses would be deducted. Because the resulting $187.50 is less than the federal benefit standard of $189.40 the earnings would not represent SGA. If however the work expenses were decreased by $3 the earnings would be considered as SGA because the $187.50 would go up to $190.50 which exceeds the federal benefit standard.

As the HEW testimony pointed out on September 26, 1978, with earnings of $500 per month, the concept of substantial gainful activity as a test of disability becomes almost meaningless. As the testimony indicated, in a society in which many nondisabled people earn only that much or less, it would be difficult to determine whether low earnings are the result of an impairment, or of economic and social factors unrelated to an impairment.

RESEARCH ON DISABILITY

Question. It is clear that the information we have on the disabled or handicapped population in the country is limited in terms of its value in estimating the impact of changes in disability legislation. Are you aware of any efforts that are now being made to improve the extent of our knowledge in this area? Is the Social Security Administration conducting any major research projects that will be helpful?

Answer. The Social Security Disability Surveys, beginning with the 1966 survey and continuing with the 1972, 1974, and 1978 surveys, have helped to identify subgroups in the population that might be affected by disability legislation. The surveys collect a wide range of characteristics related to the disabled population such as health condition, income, resources, and work history as well as demographic data on age, race, and sex.

These data are limited in terms of estimating the impact of disability legislation. While it is possible to estimate the numbers and characteristics of persons potentially affected by certain legislative changes, it is difficult to determine whether they will indeed apply for disability benefits and meet all the eligibility requirements. This is the case because the survey data are based on people's own estimation of the impairments and physical limitations, and are not necessarily in accord with the definition of disability in the law.

Projects are underway in SSA that will improve the estimates of how legislation might affect the disabled population and will narrow the gap between those who consider themselves potentially affected and those who are likely to meet the criteria for disability benefits. A study is planned, for example, to compare the medical condition as reported through surveys with the disabled person with that of a physical examination by that person's physician. The results should help in estimating how many of the disabled could actually meet the medical listings[1] in order to qualify for disability benefits.

This medical examination study will also provide the data necessary to estimate the cost and effects of adopting alternative definitions of disability.

LACK OF EVIDENCE OF IMPROVED WORK INCENTIVES

Question. H.R. 12972 has as one of its major purposes to give disabled persons an incentive to work. A study done in the Social Security Administration in 1976, however, suggests that raising the substantial gainful activity level—which is what the bill does—"will not increase work attempts by beneficiaries. All program work incentives seem to have limited effect."[2] Do you agree with this finding, and, if you do, do you have other recommendations as to how we might best respond to the work incentive problem?

[1] Medical listings, which are contained in regulations, describe impairments—in terms of specific signs, symptoms, and laboratory findings—that are presumed to be ordinarily severe enough to prevent a person from working.

[2] Franklin, Paula A., "Impact of Substantial Gainful Activity Level on Disabled Beneficiary Work Patterns." *Social Security Bulletin*, August 1976.

Answer. Raising the SGA level does not appear to give disabled beneficiaries an incentive to return to work. This conclusion, which was in the referred-to 1976 study, is supported by an updated study that will be published later this year. The earnings of most disabled beneficiaries are considerably below the SGA level and both studies show no appreciable increases in earnings as the SGA earnings levels have increased.

The Department of Health, Education, and Welfare has been reviewing the adequacy of benefits of people who want to return to work despite their impairments. Recommendations for changing the disability provisions will be submitted to the Congress in January 1979. At this time, we cannot predict what these specific recommendations will be, but priority is being given to changes that would provide more incentives to handicapped people who want to return to work.

NEED TO LIMIT AND DEFINE WORK EXPENSES

Question. If the Committee were to agree to an exclusion of work expenses for purposes of the SSI benefit, should this exclusion be further defined? Should it be limited to extraordinary disability-related work expenses? Should there be explicit provision for the Secretary to issue regulations to define what constitutes an allowable work expense?

Answer. We think it would be preferable to limit the provision to extraordinary disability-related work expenses. The term "extraordinary" should be specifically defined in regulations to be promulgated by the Secretary of Health, Education, and Welfare. We further believe the regulations should specifically list the work expenses that would be excludable.

Because some flexibility will be needed in assessing future experience, we think an explicit provision in the lew defining allowable work expenses would be undesirable.

APPROACH OF HOUSE SOCIAL SECURITY SUBCOMMITTEE

Question. I understand that the Administration would prefer that we defer action until you send up your recommendations next year. If we do act this year, however, I suppose we should consider some of the alternative approaches suggested in the bill recently approved by the House Social Security Subcommittee. (Note: See p. 13 of Blue Book concerning House proposals.)

Answer. Although no action was taken by the House of Representatives on the bill, H.R. 14084, to which you refer, we believe several of its provisions have merit. For example, some of the provisions would extend further incentives to those disabled people who want to return to work despite their impairments.

DIFFERENT FINDINGS FOR EQUALLY DISABLED INDIVIDUALS

Question. H.R. 12972 would establish a level of substantial gainful activity which would vary for each individual, depending on whether he had work expenses and on his marital status. Could you explain how this individualized determination of substantial gainful activity would be administered? For example, how would a disability adjudicator handle the situation where there were applications from two individuals with virtually identical medical and vocational characteristics, but with different work expense exclusions and different marital status, resulting in very different levels of substantial gainful activity? Would it not be possible under H.R. 12972 to find one individual disabled and the other not disabled?

Answer. It would be possible under H.R. 12972 tho find one person disabled and another not disabled even though they have identical medical and vocational characteristics. This is because H.R. 12972 would add marital status and the amount of work-related expenses as factors in the SGA decision. The SGA level would not be raised to a minimum of $440 per month for a single person and $630 for a person with an eligible spouse. Thus, a single person with earnings of $500 a month would be denied benefits, while a married person with the same monthly earnings would be allowed. In addition, a person with higher work-related expenses would, in effect, have a higher SGA level htan a person with lower expenses, all other factors being the same.

The Social Security Administration would be required to compute the SGA level in each case, using information about marital status, the amount of earnings, and the amount of allowable work expenses. This would involve considerable time and effort because work-related expenses would have to be documented.

DIFFERENTIAL TREATMENT OF DISABLED AND AGED

Question. H.R. 12972 proposes to allow a deduction for work expenses for the disabled in determining SSI eligibility. This is not limted to extraordinary expenses related to disability but covers all work expenses. Wouldn't equity require that we accord this same consideration to the aged? What would be the cost in SSI and Medicaid of amending the SSI program to allow a work-expense disregard for the aged?

Answer. Extending the same work-expense disregard to the aged as would be provided to the disabled under H.R. 12972 seems logical except that it is neither necessary nor desirable. For example, the first $65 of earnings a month are disregarded under current law. In addiiton, one-half of recipients' earnings above that amount is disregarded. The earnings exclusion is designed to give people an incentive to work and to provide a standardized work-expense disregard—a feature that avoids the very costly validation of each person's claim for work expenses.

Two sets of cost estimates for extending the work-related expenses exclusion in H.R. 12972 to aged SSI recipients have been developed. These estimates use the same methodology and assumptions that were used for estimating this provision for the disabled population.

Alternative A assumptions:

100,000 people would become newly eligible if their work-related expenses averaged $75 per month.

Participation rate would be 20 percent by the end of the fifth year.

Alternative B assumptions:

100,000 people would become newly eligible if their work-related expenses averaged $75 per month.

15,000 people would hav become entitled by the end of the first year.

15,000 people would have become entitled by the end of the first year.

Participation rate would be 20 percent by the end of the fifth year.

FEDERAL COST OF EXCLUDING WORK-RELATED EXPENSES OF AGED SSI RECIPIENTS

[In millions]

Fiscal year	SSI costs	Medicaid costs	Total costs
Alternative A:			
1979	$13	$6	$19
1980	20	15	35
1981	26	20	46
1982	31	27	58
1983	36	34	70
Alternative B:			
1979	13	6	19
1980	17	7	24
1981	19	9	28
1982	22	11	33
1983	24	13	37

Note: The Social Security Administration's program statistics indicate that approximately 50,000 aged beneficiaries on the SSI rolls have earned income. Of the aged beneficiaries who are working, about 40 percent have earnings above $65 a month, and would have a higher SSI benefit because of this bill. The estimates do not take into account any savings arising from the proposal because of aged people who decide to work. While it may be possible that some aged people will decide to work, there are insufficient data to estimate the effect of this change.

EXPERIMENTATION AUTHORITY

Question. If you were given new authority to conduct experiments in the area of work incentives for the disabled, as the recently reported House Social Security Subcommittee bill would do, do you think you could make good use of it? Would you expect to use this authority in coordination with innovative State vocational rehabilitation programs?

Answer. We weel certain we could make good use of the authority to conduct experiments. With this authority, we could make changes in the elements of the program that are considered to adversely affect the incentives of beneficiaries to return to work, and we would conduct a variety of innovative experiments along the lines of certain State vocational rehabilitation programs to that end. These changes would involve selected random groups of individuals so that the experiments could be properly tested and evaluated.

DRAMATIC CHANGES IN SEVERITY OF DISABILITIES

Question. Over the last couple of years the percentage of disabled adults who have been denied SSI payments on the basis of capacity for substantial gainful activity has decreased dramatically, while the percentage denied because of the lack of severity of impairment has shown a corresponding increase. This phenomenon has apparently occurred in the title II program as well. Could you explain to us what has been happening to cause this change?

Answer. Over the years, the Social Security Administration has developed more sophisticated techniques in evaluating impairments. As a result, more claims of workers with slight impairments are being adjudicated—and denied—on medical grounds alone. In the past, similar cases were adjudicated and denied on a combination of medical-vocational grounds. Furthermore, many of the public welfare programs require, as a condition of eligibility, that the person also file an application for all, disability benefits payable under social security or SSI. As a result, many people who have no medically determinable impairment, or a slight impairment, are now filing and being denied on a strictly medical basis (rather than on a medical-vocational basis).

GROSS INCOME UNDER H.R. 12972

Question. What would be the highest gross income possible under this bill (while retaining eligibility)?

Answer. Under H.R. 12972, the amount of income at which a person would lose eligibility would depend on the amount of excludable work-related and attendant-care expenses. Theoretically, such expenses could amount to $100,000 or more. Thus, a person could have gross earnings of that amount or more and still qualify for SSI because his work-related and attendant-care expenses amounted to that figure. That situation seems unlikely, however. We would expect, though, that there would be people with gross earnings of $10,000 or $20,000 who would qualify for SSI payments under the bill.

RELATIONSHIP TO TITLE II

Question. H.R. 12972 would establish a statutory definition of substantial gainful activity for title XVI (SSI) but leave the definition of the identical term undefined (as it is at present) in the title II social security statute. Given the fact that the terms are identical, and that the problems involved are similar, three questions occur to me:

Could you maintain this large difference in the meaning of the term in the two programs?

Would you consider it desirable to maintain differential definitions of the term?

If you did not succeed in maintaining a differential definition (or decided that it would not be desirable to do so), what would be the cost impact on the title II disability program over the next 5 years? Over the long term?

Answer. Because SGA is an integral part of the definition of disability in both social security and SSI statutes, substantial differences in the meaning of SGA between the two programs obviously would create a multitude of problems.

The public's understanding of SGA would be seriously affected if there were substantial differences in SGA between the social security and SSI programs. This would be particularly true where a person files claims for both benefits simultaneously and is found disabled under one program but not under the other.

Moreover, H.R. 12972 would create a situation where one person could be found disabled and another not, for reasons entirely unrelated to a person's medical impairment or his ability to work. A claimant with substantial earnings could be entitled to SSI disability benefits while another claimant with the same earnings and the same degree of impairment would be denied social security disability benefits. This seems unreasonable and inequitable. It would be undesirable to have differences in the meaning of SGA between the social security and SSI disability programs as H.R. 12972 would create.

In the September 26, 1978, testimony, the Social Security Administration estimated that the overall cost of H.R. 12972 would be about $750 million over the first 5 years after enactment (this included SSI, Medicare, Medicaid, and social security costs). However, if the level of SGA were defined for social security disability purposes the same as for SSI purposes in H.R. 12972, the resulting OASDI cost would be substantial. Persons who are severely impaired but are

earning between the current SGA level of $240 a month and the SSI break-even level would become newly eligible for benefits. The long-range OASDI cost of this change is estimated to be between 1.0 percent and 1.5 percent of taxable payroll. Short-range costs would be roughly $15 to $20 billion over the next 5 years, assuming that the social security changes were implemented beginning with the effective date for H.R. 12972 of October 1, 1979.

ADMINISTRATIVE IMPLICATIONS OF WORK EXPENSE PROVISION

Question. What impact do you expect from the provision of H.R. 12972 which adds specific work expenses as an excludable item in computing benefit amount?

Answer. H.R. 12972 would exclude from a disabled individual's earned income "an amount equal to any expenses reasonably attributable to the earning of any income." This language is identical to the present statutory provision for the blind (Section 1612(b)(4)(A)(ii)).

Examples of work expenses excludable under H.R. 12972 would be transportation to and from work; expenses incurred in the performance of a job (child care costs if not otherwise provided, equipment needed on the job, licenses, etc.); and expenses related to improved job performance (training related to the job).

As of March 1978, approximately 81,000 (out of more than 2.1 million) SSI disabled recipients had earned income. Passage of H.R. 12972 would require immediate notification to each affected person. For those with excludable work expenses or attendant-care expenses, SSA would recompute their benefit amounts and issue retroactive payments. There also would be need for specifically advising the remaining 2 million disabled recipients of the change.

Similar procedures would be required for blind recipients. Payment amounts of those with attendant-care expenses would be recomputed, and all other blind recipients would be notified of the change.

IMPACT OF HEARINGS AND APPEALS

Question. One of the continuing problems in the disability program has been the backlog of hearings and appeals. Could you tell us what progress you have been making in reducing the backlog and the waiting time for decisions? What impact would H.R. 12972 have on the hearings and appeals process?

Answer. Below is information on backlogs and processing times for title XVI (SSI) cases and concurrent title II and title XVI cases.

Date	Cases pending	Mean processing time (days)
1. Request for hearing:		
Sept. 30, 1977	42,214	195
Aug. 31, 1978	25,695	161
2. Request for review:		
Sept. 30, 1977	2,096	65
Aug. 31, 1978	3,438	76

We believe it is likely that enactment of H.R. 12972 would increase the volume of hearings and appeals. However, it could drastically complicate the decision process by introducing more subjectivity that would cause delays in processing.