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Opening Statement Rep. Elijah E. Cummings, Ranking Member

Hearing on "Social Security Administration Oversight: Examining the Integrity of the Disability Determination Appeals Process"

June 10, 2014

Thank you, Mr. Chairman. Today, the Committee begins two days of hearings to examine the actions of administrative law judges who determine whether individuals with disabilities qualify for financial assistance under the Social Security Disability Insurance program. Congress created this program in the 1950s as a lifeline for millions of Americans who pay their taxes and show up at their jobs every day, but experience disabilities that stop them from working.

Recently, there have been allegations of criminal fraud by one particular judge. These actions are reprehensible, and they diminish the confidence that most Americans have in this program.

Yesterday, our colleague Jackie Speier, the Ranking Member of the Subcommittee on Energy Policy, Health Care and Entitlements, sent an important letter to the U.S. Attorney for the Eastern District of Kentucky. She asked him to evaluate evidence of criminal activity committed by an administrative law judge there. I want to thank her for these efforts, and I ask that her entire letter be included in the hearing record.

I also want to thank Senator Carper and Senator Coburn, who is here with us today, for their role in exposing the details of this case.

Today's hearing does not concern allegations of criminal activity, but rather claims that some judges simply approve too many disability cases. Today, the majority has invited four judges with allowance rates higher than 90%. This means that, on average, they find disabilities and award financial aid in 90% of the cases they hear.

I believe it is appropriate to review the actions of individual judges—not to compromise their independence, but to ensure that they are following agency policy. All four judges here today received attention from the Social Security Administration long before this Committee got involved. They received in-depth reviews of their decisions and training to address problems

identified by the agency. In fact, the Social Security Administration is in the process of removing one judge from his job through a filing with the Merit Systems Protection Board.

Although I support these individual reviews, I strongly oppose the broad condemnation of all administrative law judges. The four judges here today are not representative of the 1,500 judges who work at the Social Security Administration. Even they admit that they are outliers.

According to the Social Security Administration, last year the entire pool of administrative law judges had an average allowance rate of 57%. That is the lowest overall allowance rate since 1979.

The fact is that, over the last decade, the Social Security Administration has significantly improved its efforts to collect and analyze data about judges' decisions. It has expanded training, improved performance, sharpened disciplinary procedures, and enhanced efforts to combat fraud.

But those efforts have been hindered by the failure of Congress to provide adequate funding. Right now, the agency cannot hire enough judges to hear cases, so individuals now have to wait more than a year for disability hearings, and it is getting worse. We even received testimony during our investigation about people dying while they waited for their benefits.

Congress has also underfunded anti-fraud programs that save taxpayers money. There is a huge backlog of continuing disability reviews, for example, which are supposed to be conducted every three years to make sure beneficiaries continue to have the disabilities that make them eligible. These reviews save taxpayers \$9 for every \$1 they cost, but Congress has not provided enough funding to conduct them. Congress has also failed to fully fund the Inspector General's anti-fraud investigating units, so they simply do not exist in nearly half the country.

This is the price of austerity. When we starve an agency of resources, it affects not only my constituents in Baltimore, but the constituents of every Member of this Committee and the House. If we care about improving this program, we need to invest in its success.

Let me close by noting the inaccuracy of claims that judges with high allowance rates are contributing to the insolvency of the Disability Insurance Trust Fund. The projected insolvency of the fund was forecast in 1995 by the Chief Actuary of Social Security, and the cause is broad demographic changes across the country. As he explained, Congress can address this issue by passing a modest reallocation of payroll taxes to extend benefits by decades, as Congress has done several times before.

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