

**Opening Statement of Chairman Thomas R. Carper**  
**“Social Security Disability Benefits: Did a Group of Judges, Doctors, and Lawyers Abuse**  
**Programs for the Country's Most Vulnerable?”**  
**October 7, 2013**

*As prepared for delivery:*

Today’s hearing will focus on the results of an important investigation, led by the Committee’s Ranking Member, Dr. Coburn, along with our colleagues Senators Carl Levin and John McCain, the Chairman and Ranking Member of the Permanent Subcommittee on Investigations. For the past two years, Dr. Coburn and his staff, along with the staff of Sen. Levin and – now – Sen. McCain, have examined a very troubling set of facts regarding a particular Administration Law Judge office in West Virginia, which is responsible for reviewing thousands of applications for the Social Security Administration’s disability programs.

This hearing comes at an unfortunate time for the American people, for Congress, and for our democratic process. Much of our federal government remains officially closed for business, and hundreds of thousands of public servants have been directed to stay home and not come to work. That’s not fair to them. It’s also not fair to the people we’re here to represent, who pay their taxes and – for the second straight week – aren’t receiving the government services they expect and deserve.

Our current method of stop-gap, crisis governing is no way to run any government. This type of crisis governing with last minute funding measures and government shutdowns is actually the most inefficient and expensive way to govern. We simply have to do better if we’re to put our country on a fiscally sustainable path for the future.

As I’ve oftentimes said, we basically need to do three things to get on that path and stay there. We need a comprehensive budget agreement that has three essential elements. First, we need entitlement reform that saves money, keeps these valuable programs for future generations and does so without savaging the elderly or the poor. Second, we need tax reform that produces revenues for deficit reduction, primarily by reducing tax credits, tax deductions, tax loopholes and tax shelters. And, third, we need to examine just about everything we do in the federal government and ask this question, “How do we get a better result for less money or the same amount of money in just about everything we do, from border security to Social Security?”

While much of the work of Congressional committees is suspended at this time, I believe that it is important for this Committee to meet today to learn about the investigative report we are releasing. In the midst of this very partisan time, one thing that Republicans and Democrats agree on, is that we need to make every effort to ensure our federal programs are well run and are as free as possible from abuse or wasteful practices.

So, I am pleased that we have this opportunity to hold today’s hearing about possible fraud that’s occurred in a large, critical government program. I am not pleased, however, that a fourth panel of witnesses from the Social Security Administration’s national office is not able to testify as originally planned, because of the shutdown that’s in effect for much of our government.

I have pledged to Dr. Coburn, however, that shortly after the shutdown is ended, we will schedule a second hearing so we can hear directly from the Administration about this important issue.

In addition to providing traditional Social Security benefits to tens of millions of retirees, the Social Security Administration also provides financial support to disabled Americans, ensuring that people who cannot work, and their families, have financial resources and access to health care to help meet their basic needs. Part of our responsibility as members of Congress is to ensure that people who are eligible to receive this critical safety net support receive the benefits to which they are entitled.

Nothing more, and nothing less.

And while I believe that the vast majority of recipients play by the rules, Congress must also work with the Social Security Administration to prevent any 'bad actors' who attempt to abuse the system from succeeding, while bringing to justice those who have taken advantage of the system.

Clearly, the two Social Security disability assistance programs - the Social Security Disability Insurance program and the Supplemental Security Income program - are large, complex programs that deserve vigilant Congressional oversight. These programs provide more than \$200 billion in benefits to more than 14 million people each year. The number of individuals applying for these disability programs continues to grow.

The Social Security Trustees recently estimated that the Social Security Disability Trust Fund, which supports the Social Security Disability Insurance program, could be exhausted by 2016, putting the payment of benefits at risk.

Anyone who has applied for benefits knows that the disability programs have complex rules for determining eligibility. Applications are examined in an effort to verify if someone is truly disabled, and whether the level of disability of the applicant meets the established criteria. If an applicant is denied the benefit, he or she has the right to appeal the decision before a judge, called an Administrative Law Judge. More than a thousand Administrative Law Judges hear appeals from people applying to the program annually.

The judges weigh evidence from doctors and other medical professionals, review documentation, and decide whether the facts presented by the applicants conform to the government's disability rules.

Dr. Coburn's staff, working closely with that of Sen. Levin, has completed a two-year investigation regarding specific allegations of mismanagement and fraud in the Huntington, West Virginia Administrative Law Judge office. They have worked diligently and tirelessly. The report that their collectively efforts produced forms the basis for today's hearing.

The investigation focused on former Administrative Law Judge, David B. Daugherty, who we have asked to testify today. We will also hear from a West Virginia attorney who has

represented a great many applicants for disability benefits, from medical professionals who provided evidence for the reviews, as well as from others. Very notably, we will hear from several citizens, including government workers, who stepped forward at some peril to themselves, to bring attention to this situation in my native state of West Virginia.

The findings from the investigative report are deeply troubling. Most Social Security disability administrative law judges hear between 500 and 700 cases a year and extend benefits to disability claimants in approximately 60 percent of those cases. In 2009, Judge Daugherty, however, approved benefits in all but five of the 1,410 claims he reviewed that year. In 2010, he awarded disability benefits in all but four of 1,375 claims. That's a total of nine disapprovals out of nearly 2,800 claims that he reviewed, roughly one out of every 300.

The investigation conducted under the leadership of Senators Coburn, Levin and McCain has attempted to determine the reasons behind these startling numbers. Under their leadership, committee staff members spent many hours poring over documents and interviewing the individuals involved.

I want to make clear that today's hearing is not an attempt to criticize the people in this country who rely on disability payments. These are vital programs. This hearing is not a criminal trial. Rather, we are here today to examine the issues, gather facts and attempt to ascertain the truth. A key question is whether standards of fairness and effectiveness were met in this particular situation, and if they were not, why not? A second key question is how should we address any vulnerabilities that this painstaking investigation has revealed?

This case in West Virginia appears to be at least one instance where an inordinate number of disability applications were approved. In my home state of Delaware, however, we've been hearing for years about concerns with our Administrative Law Judge office in Dover, where just the opposite appears to have occurred. This led our Congressional delegation to write to the Social Security Administration. In recent years, some judges in Dover only approved cases in the low 20 percent range, where the national average is much higher. I don't want to say that this is right or wrong, but there seem to be disparities among the many Administrative Law Judge offices across the county in both directions as far as approvals and disapprovals of benefit applications.

On top of that, there has been an ongoing problem with the backlog of cases awaiting determination in Delaware. Currently, there is an average wait time in Delaware for review of 460 days, whereas in 2011 the wait was only 327 days. Clearly, that's a trend we want to see reversed.

In response to our letters, our Congressional delegation was told that improvements for the Dover office were forthcoming. This year, the Dover Administrative Law Judges were given specialized training as part of a pilot program to improve the performance and knowledge of judges.

The success of the education pilot project in Dover is still under analysis. However, if it's successful, we're told that the Dover program could be expanded nationwide as part of ongoing reforms to these programs.

In Delaware and throughout the country, we need to find out what works and do more of that in everything we do. Not just with respect to the Social Security Disability Program. In everything our government does.

I understand that the Social Security Administration has acknowledged the need for reforms in the operation and oversight of Administrative Law Judge offices across our nation.

During the past few years, and in response to the Congressional hearings held by our Senate Permanent Subcommittee on Investigations, additional improvements are being implemented for our critical Social Security programs. We look forward to learning more about these improvements and others that are needed.

Now, I'd like to turn to our Ranking Member, Dr. Coburn, to hear a good deal more about the findings of the investigation that he and Senators Levin and McCain have led. Before doing so, though, I want once again to thank him, along with Carl and John, and the members of their staffs, for their years of effort which have led us to today's hearing.