



**SOCIAL SECURITY**  
Office of Operations

January 14, 2014

The Honorable Sam Johnson  
Chairman, Subcommittee on Social Security  
Committee on Ways and Means  
House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your November 8, 2013 letter requesting additional information to complete the record for the hearing on Puerto Rico. Enclosed you will find the answers to your questions.

I hope this information is helpful. If I may be of further assistance, please do not hesitate to contact me, or have your staff contact Scott Frey, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

Sincerely,

Beatrice M. Disman  
Regional Commissioner, New York Region

Enclosure

**Questions for the Record  
For the September 19, 2013 Hearing  
On Puerto Rico**

**Questions from Chairman Sam Johnson**

- 1. In 2006, the Puerto Rico Department of Treasury stopped paying certain bills for the Disability Determination Services (DDS) yet the Social Security Administration (SSA) is still paying some of the DDS's bill directly. How often has the SSA had to take over the direct payment of a DDS's bill for a State or Commonwealth?**

We have never had to pay DDS invoices for any other State, Commonwealth, or the District of Columbia to the extent we paid DDS bills for Puerto Rico. In a very few cases over the years, we have had to help States out. For example, in the mid-1990s, we had to pay for the systems maintenance contract and some other related bills for the District of Columbia DDS.

- 2. In your testimony, you indicate that there are a number of other Federal and State examiners processing Puerto Rico's work. The SSA has the authority to make disability decisions if a State is failing to make decisions in accordance with the regulations. Under what conditions would you consider federalizing the disability determination process in a State or Commonwealth? What additional tools in the statute would enhance the ability to ensure compliance by a DDS?**

Section 221(b) of the Social Security Act (Act), 42 U.S.C. § 421, and our regulations set forth the conditions under which we could federalize a DDS. We may federalize a DDS if we find after notice and opportunity for a hearing that it has substantially failed to make disability determinations in a manner consistent with the Commissioner's regulations and other written guidelines. The Federal assumption of the State's disability determination function could not take place until 180 days after the finding of substantial failure and until after: 1) we develop a plan and procedures to provide the affected DDS employees preference over any other individual in filling an appropriate employment position; and 2) the State has made fair and equitable arrangements to protect the interests of employees displaced by the federalization of the DDS. Under our regulations, we may make a finding of substantial failure only after we have provided the DDS technical and managerial support to improve its performance. 20 CFR 404.1670.

We believe that current statutory authority in section 221 of the Act provides adequate statutory tools. Moreover, we believe it reflects congressional intent that the States continue to administer the disability determination function, with Federal oversight in performance criteria, fiscal control procedures, and other rules designed to assure equity and uniformity to State agency disability determinations.



**3. How are employees trained to recognize fraud? Please be as specific as possible. How often does that training occur?**

We emphasize detecting and investigating program fraud. We train our front-line employees, including claims representatives in our field offices and disability examiners in the State and Commonwealth DDSs, during their initial training program. Furthermore, all employees receive continuing training in the form of mandatory annual security reminders, programs and policy issuances, videos on demand, and office visits by executives from SSA and the Office of the Inspector General (OIG).

When our field office employees uncover potential fraud while performing daily responsibilities, they are instructed to report all (non-SSA employee) fraud allegations to the OIG Office of Investigations Field Division using the online electronic referral form, e8551. We provide periodic reminders to employees on how to fill out the e8551, and maintain policy to instruct employees on its use.

The following are some recent examples of national and New York Region training initiatives:

- **August 21, 2013:** The Deputy Commissioner for Operations issued a broadcast message to all Operations staff, focusing on the importance of identifying and referring fraudulent activity. The message included a list of our fraud reporting mechanisms and how they should be used.
- **July 2013:** All Puerto Rico DDS employees completed annual mandatory security awareness training, which we provide pursuant to the Federal Information Security Management Act. This session included a detailed discussion of how to detect and refer cases involving fraud and similar fault.
- **May 2013:** The Puerto Rico DDS conducted a fraud prevention refresher training for its staff.
- **January 2013:** A monthly Operations security training initiative, titled “Think Twice First,” dealt with the importance of reporting fraud through our agency’s processes. This training session was mandatory for all of Operation’s front-line employees. It stressed the importance of identifying potential fraudulent situations and referring them to the OIG.
- **December 11, 2012:** The New York Region issued policy guidance to all of its offices, announcing the formation of a Cooperative Disability Investigation Unit in Puerto Rico. This guidance included tips and reminders regarding the fraud referral process.
- **August 2011:** Mood Disorder Training was conducted for the Puerto Rico DDS and all Office of Disability Adjudication and Review offices in the Commonwealth. A significant portion of this training focused on tools our employees should use to evaluate questionable medical evidence, detect potential fraud and similar fault, and refer cases for investigation.



- **April 2011:** The New York Region issued a special fraud message to all SSA components that were processing or reviewing claims from Puerto Rico. It asked those components to be alert to potential fraudulent activity and to refer those cases to the OIG where appropriate.

Additionally, each region hosts a Regional Anti-Fraud Committee that meets to discuss and promote ongoing anti-fraud initiatives. The Committee sessions provide an opportunity to review the nature of the fraud referrals from SSA components and discuss techniques to encourage referrals and streamline our processes. Also, the Committee shares ideas regarding areas that have potentially fraudulent activity that the OIG should examine.

- 4. DDS examiners make decisions based on medical evidence submitted by doctors, yet that evidence has to be consistent with the claimant's allegations and other medical evidence in the file. With regards to the Puerto Rico disability fraud scheme, was every document placed in these files fabricated? As three doctors were among those arrested in Puerto Rico, what is the nature of the review DDSs and ALJs are required to do before accepting medical evidence from a doctor? How is compliance with these instructions, along with instructions for the weighing of evidence, enforced?**

As I mentioned in my testimony, we will review at least 6,600 disability applications in which we awarded benefits based, in part, on medical evidence supplied by the indicted doctors. In redetermining these cases, we will disregard the tainted medical evidence. If the remaining evidence does not support our original allowance, we will suspend the benefits and provide an opportunity to submit additional medical evidence prior to issuing a final determination.

Based on our recent experience, most of these applications had medical evidence from doctors who were not implicated in the fraud scheme. At this point in our review, we cannot predict the number of continued benefits based on the remaining evidence in file.

Our regulations set forth the criteria for weighing medical evidence, including opinion evidence. See, for example, 20 CFR 404.1520b, 404.1527, 416.920b, and 416.927. We require disability decision-makers to follow these criteria when deciding a disability claim, and provide relevant training to assist them. For example, in August 2011 we provided mood disorder training that included instructions regarding the appropriate sources and use of evidence in establishing medically determinable impairments, evaluation of symptoms, assessing credibility, and medical source opinions.

- 5. What is the cost per case at the initial, reconsideration, hearing and Appeal Council levels? If possible, for initial decisions, please provide a separate break out of costs for those cases processed by the State DDS, Extended Service Teams, and Federal component costs. Please provide these costs for Fiscal Years 2011, 2012, and 2013.**

The table below provides the total agency cost per case of claims at the initial, reconsideration, hearing, and Appeal Council levels for fiscal year (FY) 2011 and FY 2012. FY 2013 data is not yet available. We cannot provide a break out of costs for cases processed by the State DDS, Extended Service Teams, or Federal disability processing units.

Level	Unit Cost FY 2011	Unit Cost FY 2012
Initial Disability Claims	\$1,058	\$1,036
Reconsiderations	\$ 679	\$ 666
Hearings	\$2,752	\$2,771
Appeals Council Reviews	\$1,405	\$1,181

**6. During the hearing, you discussed a number of ways Puerto Rico is different from the rest of the country. How do you explain the difference in award rates in Puerto Rico compared with the rest of the nation? Also, what explains the increase in initial awards from 43 percent in 2008 to over 59 percent in 2009, and 65 percent in 2011?**

Puerto Rico is different from the rest of the country in several ways that could potentially contribute to a higher award rate. When compared to the rest of the country, the population in Puerto Rico has the following characteristics that are associated with a higher likelihood of an award:

- **Older ages.** According to the data published in our 2012 Annual Statistical Report on the Social Security Disability Insurance Program, about 76 percent of disabled worker beneficiaries in Puerto Rico are ages 50 or older compared to only about 71 percent in the United States.
- **Low education levels.** According to the Census Bureau's 2012 American Community Survey, approximately 27.4 percent of the Puerto Rico population ages 25 and older has not attained a high school degree compared to only approximately 13.8 percent in the United States.
- **Higher Prevalence of Disability and Poor Health.** According to the 2012 American Community Survey, approximately 18.1 percent of people in Puerto Rico ages 18 to 64 report a disability compared to only approximately 10.1 percent in the United States. Similarly, the 2012 Centers for Disease Control Behavioral Risk Factor Surveillance System data show approximately 36.1 percent of the population in Puerto Rico is in poor or fair health compared to only approximately 16.9 percent in the United States.

The alleged fraud that is under investigation now may have also affected award rates. We are carefully reviewing cases and will know more about the impact of the alleged fraud after we complete the investigation.