

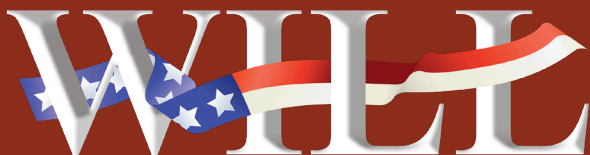
# Wisconsin Institute for Law & Liberty



## *Untapped Potential*

Federal Disability Programs  
and Wisconsin's  
Labor Shortage

Collin Roth  
Director of Public Engagement and  
Policy Analyst



## Table of Contents

Executive Summary	
Help Wanted.....	2
The Case for Reforming SSDI and SSI.....	3
<i>Sharp Enrollment Increases in US and Wisconsin.....</i>	4
<i>Sticker Shock: A Looming Crisis.....</i>	7
<i>Subjective Criteria.....</i>	7
<i>Incentives Against Work.....</i>	8
Federal Disability Reform: The Path Forward.....	9
<i>Return to Work and Early Intervention Demonstration Projects.....</i>	9
<i>Enhanced Scrutiny and New Requirements for Current Applicants.....</i>	10
<i>Temporary and Partial Disability Insurance.....</i>	10
<i>Federalism: State Management and Innovation.....</i>	11
Conclusion.....	12
Appendix A: Social Security Disability Insurance Eligibility.....	13
Endnotes.....	14

A special thank you to Cori Petersen, WILL Writer and Research Associate, and  
CJ Szafir, WILL Executive Vice President

## EXECUTIVE SUMMARY

In 2018, more people than ever in Wisconsin are employed. The unemployment rate has dipped below 3% - well below the 5% benchmark for “full employment.” But Wisconsin’s economy is held back by a workforce shortage. Wisconsin’s Department of Workforce Development (DWD) Job Center of Wisconsin website identifies more than 100,000 open jobs in Wisconsin. As of April 2018, the U.S. Department of Labor reported job openings exceeded the number of unemployed Americans for the first time since record-keeping began in 2000.

Yet an opportunity exists. Lawmakers can increase the workforce by reforming a government benefits program that is quite simply on an unsustainable path. This study represents an in-depth analysis of federal disability insurance, why the system is unsustainable, its impact on Wisconsin, and recommended reforms. Consider the following:

- ▶ Nearly 13 million Americans are enrolled in the two federal disability programs – Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI). At a price tag of \$200 billion annually, federal spending on SSDI and SSI accounts for more than the combined federal spending on food stamps, housing subsidies, and unemployment insurance.
- ▶ In Wisconsin, more than 224,000 working-age adults are enrolled in federal disability programs. Since 2000, enrollment has grown by 56%. The problems are numerous. More than half of all disability determinations rely on factors beyond objective medical evidence. Applications and enrollment in federal disability spike during economic downturns but generally do not go down during periods of economic boom. And decades-long enrollment growth trends don’t match other indicators of health and disability among working-age individuals.
- ▶ According to conservative estimates, nearly 13,000 Wisconsin “marginal case” SSDI beneficiaries since 2000 could be working and earning more than their disability benefit.

The status quo is costly and unsustainable. This report identifies four areas where reforms could make a meaningful difference in ensuring that federal disability programs serve those who most need it without disincentivizing work and rehabilitation.

- Federal demonstration projects are underway in 8 states to determine the best ways to keep individuals who might apply for disability in the workforce.
- The Trump administration has proposed enhanced scrutiny for subjective medical conditions and applicants who have recently been on unemployment benefits.
- Congress has proposals that would create partial and temporary disability benefits for those that can reasonably be expected to rehabilitate or train for new vocations.
- The best opportunity for fundamental reform would be to have states petition the federal government for more control over disability. Embracing the principles of federalism would spur innovation, experimentation, and would engage states and local employers in meeting their workforce needs.

Current economic conditions provide a rare opportunity to reform federal disability programs. With the right incentives and support, current beneficiaries and potential applicants can remain in the labor force. Not only will this be better for them and their families, it will help meet critical workforce needs and shore up the disability program to avoid a looming solvency crisis.



## Help Wanted

The outlook for the national economy is as rosy and promising as any time since the Great Recession. A new federal tax reform law promises more money in the hands of working Americans. Wages, long stagnant, are starting to rise. Unemployment has dropped below 4% nationally, the lowest since 1969.

This is all welcome news after a slow, sometimes halting, recovery. During the Great Recession, Rust-Belt states like Wisconsin with strong manufacturing workforces were hit particularly hard. From December 2007 to December 2010, the total number of employed workers in Wisconsin fell by 147,000. It would take more than eight years, until April 2015, for the total number employed in Wisconsin to reach pre-recession levels.

In 2018, more people than ever in Wisconsin are employed. Wisconsin's labor force participation rate has steadily risen to more than 68% – well above the 63% national labor force participation rate. The Badger State unemployment rate has even dipped below 3% – well below the 5% benchmark for “full employment.” Brian Riedl, a Senior Fellow at the Manhattan Institute, noted that in January 2017, the excess unemployment

rate – the baseline number of people that are transitioning between jobs at any given time – fell below zero and into negative territory. “By economist standards, Wisconsin has run out of people who are jobless due to broad economic or labor market failures,” said Riedl.<sup>1</sup>

Still, the economy needs more workers. Wisconsin's Department of Workforce Development (DWD) Job Center of Wisconsin website currently identifies more than 100,000 open jobs in Wisconsin. This matches national trends. As of April 2018, the U.S. Department of Labor reported job

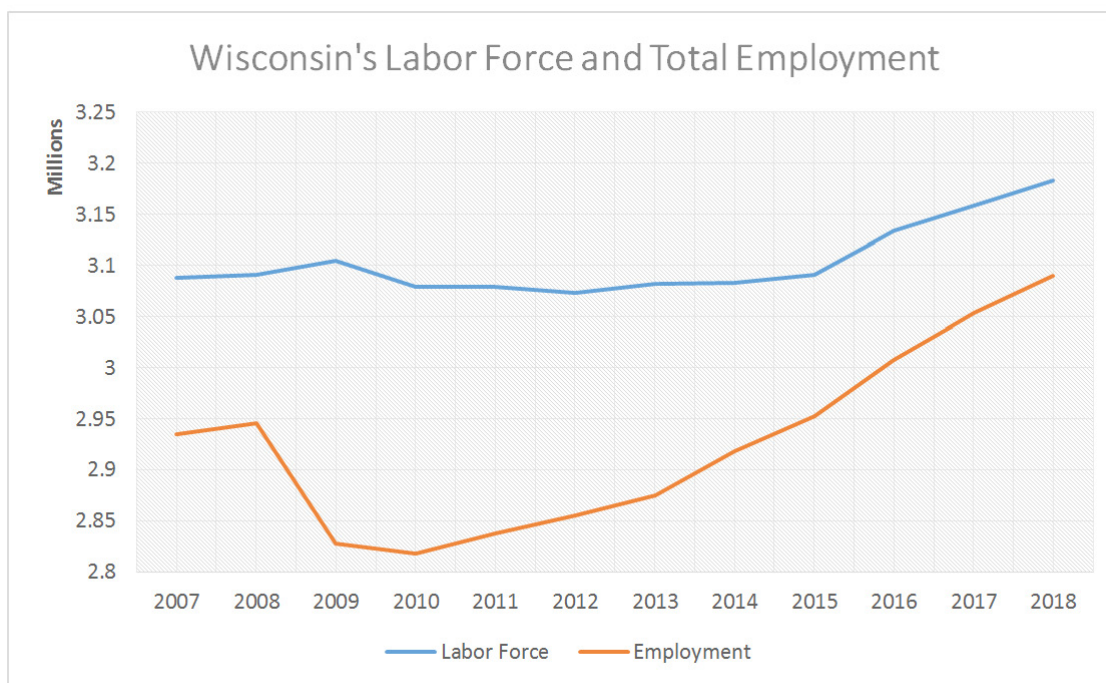
openings exceeded the number of unemployed Americans for the first time since record-keeping began in 2000.<sup>2</sup>

The resulting worker shortage has policymakers and businesses looking for creative ways to boost the labor force, or match the existing labor force to the skills needed by employers. Governor Scott Walker has signed a number of bipartisan workforce development bills that boost training and re-training programs around the state. Republicans have passed reforms to unemployment insurance and food stamps, adding work requirements to incentivize recipients to move back into the workforce. Others, including former Governor Tommy Thompson, have advocated for “second-chance” reforms that

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***“By economist standards, Wisconsin has run out of people who are jobless due to broad economic or labor market failures...”***

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Source: Bureau of Labor Statistics, 2018



## Federal Disability at a Glance

### Social Security Disability Insurance (SSDI)

- SSDI benefits are available for disabled workers and their dependents. At retirement age, benefits are changed to Social Security retirement.
- Eligibility for SSDI benefits is determined by work history, earnings, and passing SSA's criteria for disability determination.
- 10 million recipients (2017).
- SSDI beneficiaries receive, on average, \$1,196.87 per month, or approximately \$14,000 per year.
- The average beneficiary is age 54.
- Men represent nearly 52% of beneficiaries.
- Eligible for Medicare after two years.

### Supplemental Security Income (SSI)

- SSI is a means-tested assistance program to serve low-income disabled adults, families with disabled children, as well as the blind and elderly with monthly cash benefits.
- Eligibility for SSI is determined by disability and income. There are no work experience requirements.
- More than 8 million Americans receive SSI (2017).
- The average monthly benefit is \$542.
- Women represent 53% of beneficiaries.
- SSI and SSDI use the same disability determination criteria for adults. SSI determinations for children are slightly different.
- Eligibility is determined by disability and income. There are no work experience requirements.
- 14% are minors, 58% are 18-64, and 27% are age 65+

SOURCE: Social Security Administration, 2018

would make more of Wisconsin's prison population eligible for work upon reentry.<sup>3</sup> A marketing campaign was even crafted to try and lure young workers from Chicago, boasting less congestion and nearby natural attractions.<sup>4</sup>

One large cohort of working-age Americans remains firmly outside of the workforce at an expanding cost to themselves, to taxpayers, and to an economy desperate for workers. 13 million Americans receive disability benefits through the two primary federal programs – Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI). Just one percent in a given year will have their benefits terminated by returning to the workforce.<sup>5</sup> Decades of evidence indicate these programs are in need of reform. They push too much human potential to the sidelines, at too high of a cost, when our economy, our communities, and our families need everyone contributing.

### The Case for Reforming SSDI and SSI

The two primary federal disability programs are Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI). Both SSDI and SSI are federally funded and provide monthly cash benefits for disabled workers and their families

### Disability Determination

Applicants applying for SSDI and SSI have to prove their disability. The Social Security Administration looks at whether the individual:

1. Is working (SSDI only)
2. Has a condition deemed "severe."
3. Has an impairment that meets or equals one that is described in SSA's listing of impairments.
4. Can do the work he or she previously did.
5. Can do any other type of work.

More details on eligibility criteria can be found in Appendix A.





in the case of SSDI, or low-income families with a disabled family member in the case of SSI. Decades of evidence indicate these programs are in need of reform.

#### *Sharp Enrollment Increases in US and Wisconsin*

SSDI was created in 1956 to provide benefits to disabled workers age 50 to 64. In 1958, the benefit was expanded to include the spouses of workers. By 1960, the requirement that a beneficiary be at least 50 years old was dropped altogether. From 1960 to 2013, enrollment in SSDI grew from 788,000 to over 12 million. Since 2013, enrollment has gradually declined to 11.6 million total SSDI beneficiaries in 2017.

The steepest growth in SSDI has occurred in the last 25 years, with more than 7 million added to the rolls since 1990. It is only in recent years with an improving economy and more SSDI recipients of the Baby Boomer generation moving on to Social Security retirement benefits that the troubling trend line fueling the worst fears about the program has flattened and even decreased. As of May 2018, the number of disabled workers in

***"According to the Cato Institute, "compared to previous decades, working-age individuals are no less healthy today: self-reported measures of health and disability indicate roughly the same frequency of a work-limiting condition among today's workers as was the case in the 1980's."***

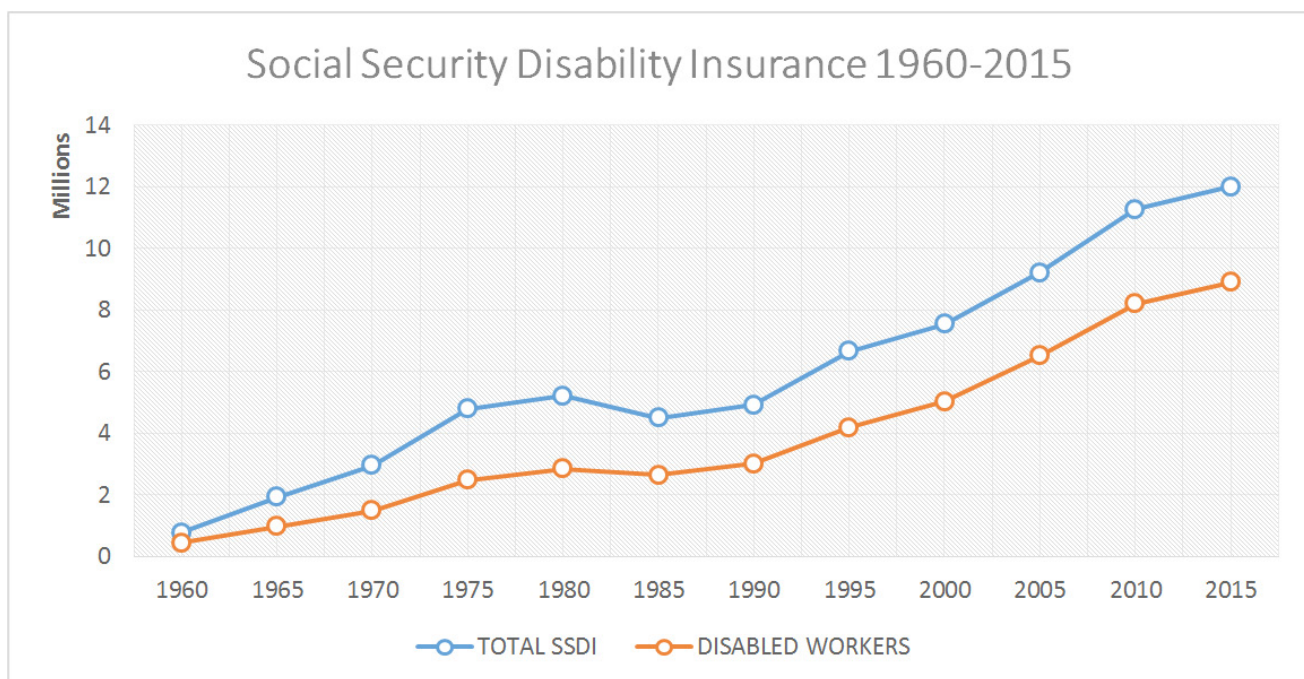
SSDI had dropped to 8.63 million workers.

The decades-long growth of SSDI is due in part to demographic trends in the United States. The aging of the Baby Boomers, the increase of women in the workforce, and the increase in the retirement age are estimated by economists with the Federal Reserve Bank of San Francisco to account for just over half of the growth of the disability rolls between 1990 and 2011.<sup>6</sup>

But the other half of the growth is believed to be due in large part

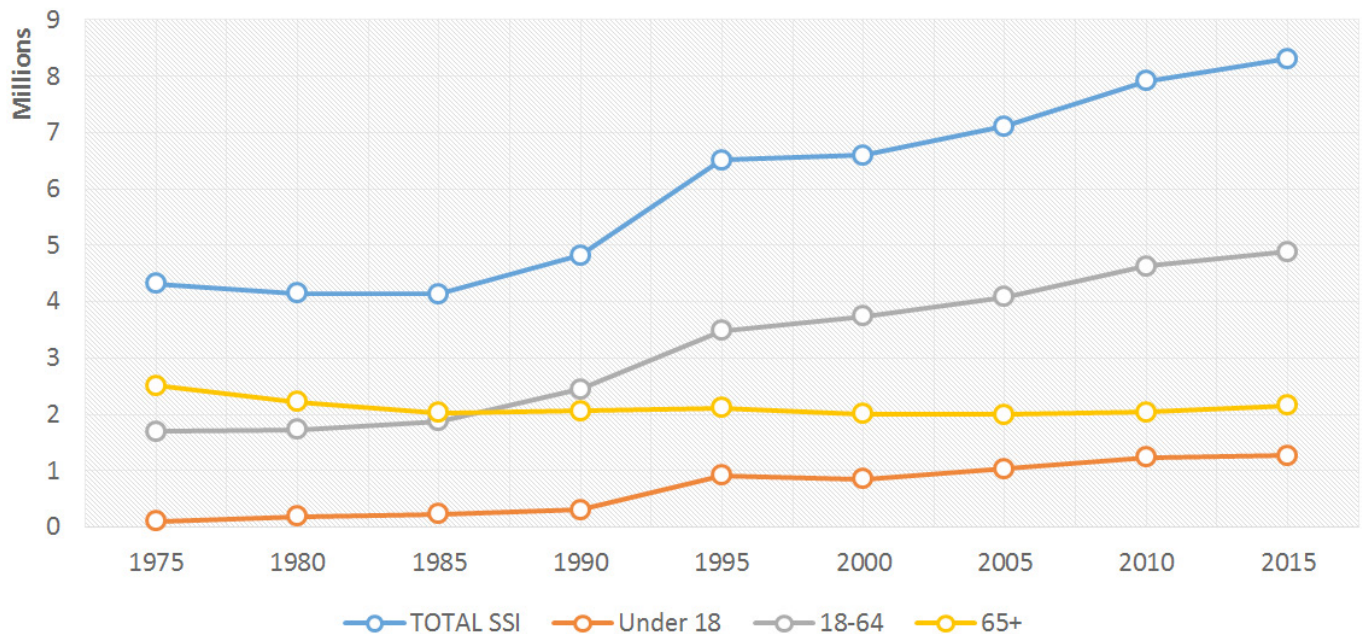
to the value of the benefits for low-wage workers and changes to the program's eligibility criteria that allowed more people to qualify.<sup>7</sup>

More troubling, the SSDI enrollment growth has not corresponded with observable changes in the health of working age Americans. According to the Cato Institute, "compared to previous decades, working-age individuals are no less healthy today: self-reported measures of health and disability indicate roughly the same frequency of a work-limiting condition among today's workers as was the case in the 1980's."<sup>8</sup>



Source: Social Security Administration, 2016

## Supplemental Security Insurance (SSI) 1975-2015

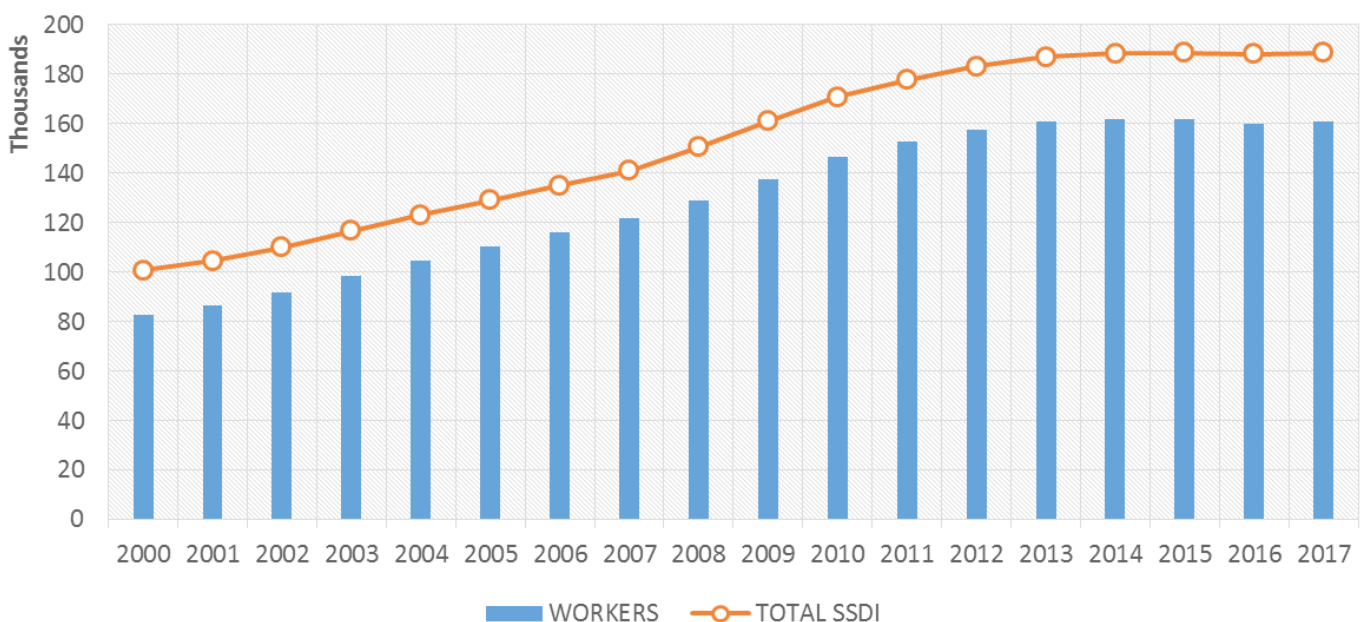


SOURCE: Social Security Administration, 2016

SSDI benefits have proven to be a lifeline for many low-wage workers, particularly in rural America. Scott Winship, writing in National Affairs notes, “The average monthly SSDI benefit today is almost exactly what a full-time worker making minimum wage earns before taxes. And that doesn’t include the value of

Medicare benefits, which has grown as employer health coverage has declined and medical costs have risen.”<sup>9</sup> According to a 2017 Washington Post report, “All but two of the 102 counties with the highest [disability] rates – where at minimum about one in six working-age adults receive disability – were rural.”<sup>10</sup>

## WISCONSIN



SOURCE: Social Security Administration, 2017



Controversial subjectivity in eligibility criteria has added to the decades-long growth in disability enrollment. The Disability Benefits Reform Act of 1984, a reversal of a 1980 law to tighten eligibility and contain costs, allowed for wider consideration of the functional impact of mental disorders, added greater weight given to an applicant's "statement of pain," and this gave applicants the ability to "qualify on the basis of the combined effect of multiple medical conditions, each of which might not have met the criteria if considered alone."<sup>11</sup>

Impairments that involve pain (Musculoskeletal and Connective Tissue Problems, 33%) and mood and mental disorders (Mental Disorders, 26%) represent more than half of disabled worker beneficiaries in 2017.<sup>12</sup> Three decades prior, applicants to SSDI citing these issues were roughly 20%.

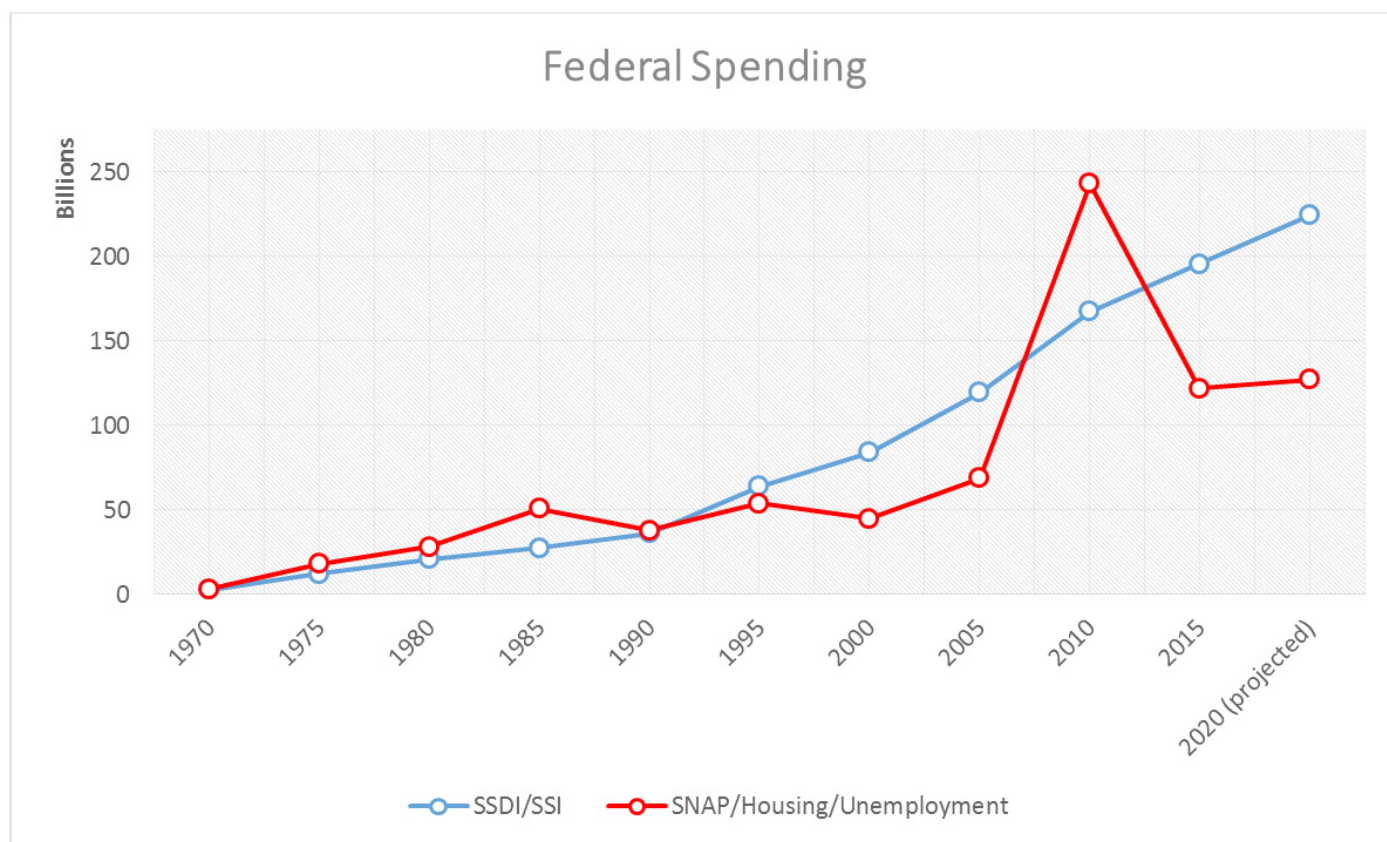
Something similar occurred in SSI. From 1975 to 2015, enrollment in SSI doubled. The majority of SSI recipients are working-age adults (58%), where enrollment has grown from 1.6 million to nearly 5 million. But a U.S. Supreme Court decision in 1990, **Sullivan v. Zebley**, dramatically expanded eligibility of SSI for children. Instead of the strict medical definition of

disability spelled out in statute, children could now qualify for SSI for an "impairment resulting in marked and severe functional limitations." Before the ruling, just 50,000 children were enrolled in SSI. By 1993, the number quadrupled to 240,000.<sup>13</sup>

The growth is mirrored in Wisconsin.

Since 2000, Wisconsin has seen its share of the working-age population 18-64 on disability (SSDI, SSI, or both) grow from 144,000 to over 224,000 – a 56% increase.<sup>14</sup> The vast majority of this increase occurred in the SSDI program. At the same time, the working-age population 18-64 in Wisconsin has shrunk from its peak in 2011. Wisconsin now matches the national average with 6.3% of the working age population on SSDI, SSI, or both.

Two demographic trends explain some of Wisconsin's SSDI growth. The ratio of females to males receiving disability has recently reached parity, indicative of decades-long changes in the composition of the workforce. The graying population in Wisconsin, those aged 55 to 66, have also helped drive Wisconsin's SSDI growth in the last decade. This is indicative of the demographic trends of an aging workforce. But it is also bolstered by the structure of the SSDI program application process. For applicants who fail to qualify for SSDI based strictly



SOURCE: Office of Management and Budget, Historical Tables



on medical evidence, a “medical-vocational grid” is employed to help determine eligibility. The medical-vocational grid is highly subjective and “makes it easier to award SSDI benefits to middle-aged and older workers, unskilled workers, and non-English speakers.”<sup>15</sup> More than half of all SSDI recipients are now approved based on the medical-vocational grid – meaning medical evidence that met the strict definition of a disability was lacking.

## *Sticker Shock: A Looming Crisis*

Spending on SSDI and SSI currently amounts to nearly \$200 billion per year. Outside of a spike that occurred at the height of the Great Recession, federal spending on SSDI and SSI is more than the combined federal spending on food stamps, housing subsidies, and unemployment insurance.<sup>16</sup>

The costs of the federal disability programs have been, until very recently, on unsustainable trajectories. The most recent crisis occurred when the Social Security Disability Trust Fund, funded by payroll taxes, was set to face depletion in 2016. This crisis, which spurred renewed interest in SSDI reform for a brief period, was averted by the Bipartisan Budget Act of 2015 that made changes to “the payroll-tax rate – directing slightly more of Americans’ payroll taxes to SSDI – which will allow for full payment of benefits through 2022.”<sup>17</sup> This amounts to a \$150 billion shift in revenue from Social Security retirement benefits to disability. Without a fix, SSDI recipients would have faced a 20% benefits reduction.

Recent strong economic growth has resulted in a drop in SSDI applicants and slight decline in the growth of enrollment. Additionally, a number of Baby Boomer recipients are leaving the program due to eligibility for Social Security retirement benefits. This has served to extend into the future the projected depletion of the Social Security Disability Trust Fund reserves to 2032.<sup>18</sup>

But it would be a mistake to believe the cost of federal disability is satisfactory and without downstream effects. The cost remains staggering, even if solvent in the short term. And according to the American Enterprise Institute, the “fix” in 2015 robs Peter (Social Security retirement) to pay Paul (Social Security disability). “This shift in payroll tax receipts is not a long-term solution to the disability program’s funding problems because the Social Security retirement program is also racing

towards insolvency and cannot afford to lose the tax revenue shifted to disability on a permanent basis.”<sup>19</sup> And as with all federal benefits and insurance programs, the inability to deal with a towering national debt means painful benefit cuts and insolvency will remain threats well into the future.

## *Subjective Criteria*

The recent growth in enrollment and the accompanying heavy price tag for federal disability programs has inspired debate over the enrollment criteria and incentive structure.

Disability programs inherently have some level of subjectivity. Unlike Social Security retirement benefits (prove your age), unemployment insurance (prove your lack of employment), or food stamps and Medicaid (prove your income level), SSDI and SSI aim to create objective definitions for medical conditions that can, in many cases, be very difficult to determine.

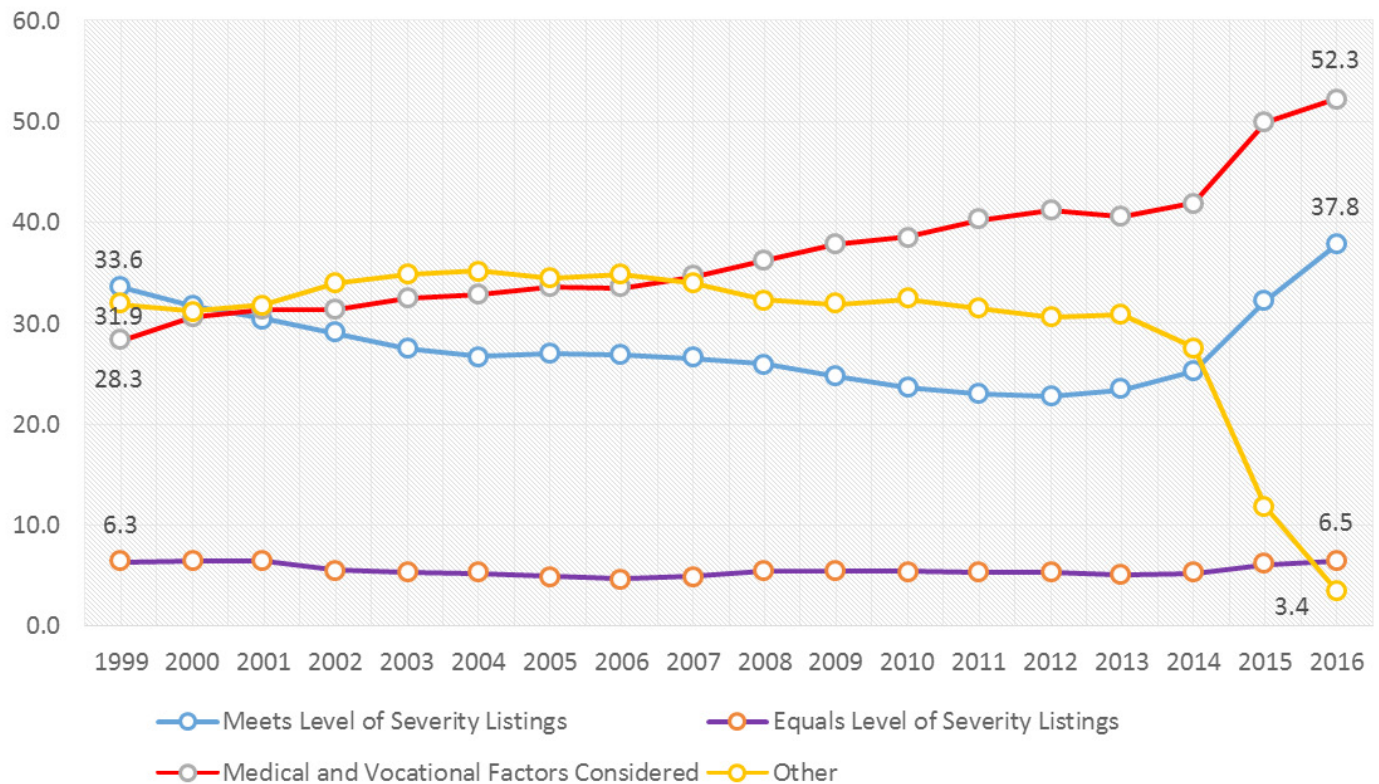
In 1984, the Disability Benefits Reform Act injected “vocational considerations” into the determination process (referenced above), adding new subjective criteria to the evaluation process. If an applicant does not qualify on strict medical evidence, demographic characteristics like age, work experience, education, language ability, and location are considered when weighing whether to offer benefits. By 2015 more than half of SSDI determinations included medical and vocation considerations, meaning the applicant did not qualify on the medical severity of their disability alone.<sup>20</sup>

Subjective criteria ultimately makes federal disability programs subject to the economic environment, particularly for low-wage workers. The Great Recession served as a major driver of recent enrollment growth. According to the CBO, “When opportunities for employment are plentiful, some people who would qualify for DI benefits find working more attractive. Conversely, when employment opportunities are scarce, some of those people apply to the DI program instead of looking for work.”<sup>21</sup>

“During the three-year period following the start of the recession, the number of monthly awards for Social Security Disability Insurance (SSDI) rose by 29%,” wrote James Sherk of the Heritage Foundation.<sup>22</sup> Sherk’s analysis found that one-third of the drop-off in labor force participation between 2007 and 2013 was due to the more than 2 million who enrolled in SSDI during the recession.



## Disabled Workers - Disability Determination By Percentage



Source: Social Security Administration, 2017

To quantify the effect of subjective eligibility criteria, economists have examined the effect of SSDI on the labor supply with so-called “marginal cases,” or applicants whose disability determination could go one way or another. A 2013 RAND Corporation study estimated that “23 percent of SSDI applicants are on the margin of program entry in the sense that whether they ultimately receive benefits depends on their initial examiner assignment.”<sup>23</sup> Of that cohort, the RAND study estimates that 28% of them could reasonably work and be better off – earning more than the Substantial Gainful Activity mark (\$1,180 per month).

Using the criteria from this RAND study, a conservative estimate indicates nearly 13,000 Wisconsin SSDI recipients since 2000 could be “marginal cases” that would have been better off remaining in the workforce. That cohort alone would boost the state’s labor force participation rate by 0.3 percent.

***“23 percent of SSDI applicants are on the margin of program entry in the sense that whether they ultimately receive benefits depends on the their intial examiner assignment.”***

### *Incentives Against Work*

While economic conditions can serve to attract disability applicants, there are elements of the program and the application process that disincentivize any return to work. It should be noted that disability benefits are not necessarily easy to obtain. This is due in part to a lengthy and involved application process that requires an individual to be out of the workforce (not engaging in Substantial Gainful Activity). According to the American Enterprise Institute, “the entire process of applying for benefits and appealing for denied claims can last from 4 to 33 months, or longer.”<sup>24</sup> For a “marginal case” whose disability

might be subjective, this lengthy process can mean “their skills may depreciate or become obsolete, their health condition may worsen, and their psychological preparedness to return to work may erode.”<sup>25</sup>

Because the process is so lengthy,

obtaining disability benefits results in a “severe disincentive to rejoin the labor force once the economy improves or their health impairments abate: not only will they lose their disability benefits but, if their condition relapses, they will have to repeat the difficult and lengthy application and eligibility determination process.”<sup>26</sup>

The “Ticket to Work” program was created in 1999 to provide disability recipients with resources and incentives to return to the workplace. While seemingly aimed at counteracting the same problems identified in 2018,

“Ticket to Work” is largely considered a failure. In 2016, just 1% of SSDI recipients had their benefits terminated as a result of a successful return to the workforce.

## Federal Disability Reform: The Path Forward

America’s federal disability programs need reform. SSDI and SSI simply cost too much in terms of lost human potential, labor force participation, and federal outlays. While it is true that disability insurance serves an important role for individuals who cannot work and cannot be rehabilitated, there is clear evidence that the program is attracting many Americans who are permanently leaving the workforce when they should be seeking rehabilitation and an eventual return. This comes at a time when our workforce needs are critical.

While ideas abound about how to reform federal disability, the solutions meriting the most consideration fall into four groups.

### *Return to Work and Early Intervention Demonstration Projects*

The most critical way to slow the growth of disability rolls and retain human capital is to prevent an individual from applying for SSDI in the first place. And if one can’t successfully prevent an individual from applying and receiving benefits, the next best thing is to create structures and incentives to rehabilitate that person for a return to the workforce.

The Trump administration’s 2018 budget enabled the Office of Disability Employment Policy (ODEP), an agency within the U.S. Department of Labor, to fund \$20 million for states to participate in the RETAIN (Retaining Employment and Talent After Injury/

Illness Network) demonstration project. RETAIN enlists state partners to design and implement features of Washington State’s Centers for Occupational Health and Education

program – such as population screening and monitoring, care and service coordination, targeted rehabilitation, and workplace accommodations. One of the stated goals of RETAIN is “To reduce long-term work disability among project participants, including the need for Social Security Disability Insurance and Supplemental Security Income.”<sup>27</sup>

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***“...a conservative estimate indicates nearly 13,000 Wisconsin SSDI recipients since 2000 could be “marginal cases” that would have been better off remaining in the workforce.”***

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RETAIN is designed to not only change the incentives to encourage disabled people to return to work, but to improve “Stay-at-Work/Return-to-Work” (SAW/RTW) outcomes by providing services that “support labor force attachment.”<sup>28</sup> RETAIN is currently in Phase I and has selected eight states (California, Connecticut, Kansas, Kentucky, Minnesota, Ohio, Vermont, and Washington) to participate.

The Trump administration’s RETAIN demonstration project matches similar demonstration project proposals from the Brookings Institute. “The key to reducing disability insurance costs is to intervene as early as possible to assist individuals in remaining at work,” wrote Jeffrey Liebman and Jack Smalligan, authors of a 2013 report.<sup>29</sup> Brookings suggested the federal government enable three state-level demonstration projects:

- ▶ Offer a package to SSDI applicants that includes targeted vocational and health interventions, and an Earned Income Tax Credit-like wage subsidy.
- ▶ Allow states to experiment with existing federal funding streams to target an at-risk population who may eventually apply for SSDI.
- ▶ Provide employers with a tax credit against their disability insurance payroll tax if they can reduce SSDI enrollment among their employees.

**ANALYSIS:** The value of demonstration projects like RETAIN and those proposed by Brookings is to learn what incentives and structures work to effectively deter potential SSDI applicants from removing themselves permanently from the labor force.





They should be encouraged and the data obtained is valuable, but ultimately, pilot programs and demonstration projects are modest attempts at reform and are unlikely to result in major changes.

## *Enhanced Scrutiny and New Requirements for Current Applicants*

The documented growth in SSDI and SSI applicants with difficult to evaluate conditions (back pain and mental health disorders) ought to be met with enhanced scrutiny and new requirements. To their credit, the Trump administration has proposed requiring SSDI applicants that suffer from lower back pain and arthritis to participate in traditional rehabilitation and occupational therapy before they receive benefits.<sup>30</sup> Similar requirements would apply to those with mental disorders that could be effectively treated with medication. This would be a good step towards objectively evaluating the severity of these conditions when objective medical evidence is lacking.

Additionally, the Trump administration has proposed a sliding scale for multi-recipient SSI families, offsetting overlapping disability and unemployment benefits, changing 12-month retroactive disability benefits to 6 months and eliminating workers' compensation reverse offset benefits, or disability benefits that are reduced by the amount of workers' compensation a person is receiving.<sup>31</sup> Each of these reforms would ensure that those applying for and receiving SSDI and SSI are doing so out of true need.

Warshawsky and Marchand at The Mercatus Center have proposed eliminating the "medical-vocational grid" that is "out of date with the economy and modern medicine."<sup>32</sup> They argue, "age, education, and language skills should not be considered" when making federal disability determinations.

**ANALYSIS:** These reforms, if fully implemented, would move in the direction of ensuring that those applying for and receiving SSDI and SSI are doing so out of true need. Eliminating vocational considerations would prove significant since more than half of all recipients are admitted based on some evidence other than strict medical condition.

## *Temporary and Partial Disability Insurance*

One of the central problems with federal disability is that it creates a binary whereby applicants are either accepted and

permanently removed from the workforce, or are denied and left on their own. In many cases, an individual may have a legitimate disability or injury that prevents them from working, but the individual can be rehabilitated or retrained.

The Return to Work Act, most recently introduced in March 2017, is a bill proposed by Senators Tom Cotton, Mike Lee, and Marco Rubio that would reform SSDI to treat individuals differently based on the classification of their disability and the likelihood of recovery.<sup>33</sup> The bill creates four different disability classifications that are based on an objective determination of the severity of a disability and how long it would take for medical improvement and return to the labor force. The four categories are:

### Medical Improvement Expected

- ✓ Individual will no longer be disabled in 12 to 24 months
- ✓ Termination of benefit at 24 months

### Medical Improvement Likely

- ✓ Individual will no longer be disabled in 25 months to 60 months.
- ✓ Termination of benefits at 60 months

### Medical Improvement Possible

- ✓ Individual is not expected to medically improve to the point where the individual will no longer be disabled in 60 months, but future improvement is possible
- ✓ A mandatory Continuing Disability Review at 5 years

### Medical Improvement Not Expected

- ✓ If the individual has an impairment or combination of impairments that is chronic or progressive with permanent, irreversible structural or functional loss, and for which there is no known effective therapy, treatment, or surgical intervention that could result in medical improvement to the point where the individual is no longer disabled



- ✓ A mandatory Continuing Disability Review at 10 years

**ANALYSIS:** The Return to Work Act is a straightforward and simple reform that could do a lot of good. If adopted, it would immediately shift SSDI from a one-size-fits-all determination to one that takes into account the likelihood of recovery, rehabilitation, and retraining. This would be good for disabled workers, the labor force, and federal spending on disability. But the Return to Work Act is subject to a dysfunctional Congress with seemingly little appetite for big reform.

## *Federalism: State Management and Innovation*

The best prospect for radical and hopeful reform of Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) would be an embrace of federalism. If authority over the structure, budgets, and incentives of SSDI and SSI were devolved back to the states, the two federal disability programs would experience desperately needed innovation and experimentation to better meet the needs and values of a particular state, their economy, and their disabled population.

The Secretaries Innovation Group (SIG), a partnership of state-level human service and workforce secretaries led by Wisconsin's Secretary of Children and Families Eloise Anderson, has developed the architecture of what states could do to better administer SSDI and SSI if given the authority from the federal government. According to SIG, "States are better equipped to manage the true costs of disability" because "the federal government does not have the capability, capacity or management incentive to help the disabled improve their employment prospects, or otherwise maximize their human potential."<sup>34</sup>

If states were given permission to design, develop, and run a portion of federal disability programs, SIG proposes modeling SSDI on workers compensation and SSI on Temporary Assistance for Needy Families (TANF).

A state-level reform of SSDI modeled on workers compensation would create a state disability fund that could be financed by an experience-rated payroll tax for large businesses and a flat tax for small employers. The purpose of moving to an experience-rated tax, as opposed to the current flat payroll tax for SSDI, would be to "encourage employers to reduce their costs by investing in accommodation and rehabilitation where

feasible."<sup>35</sup> Citing evidence from the Netherlands, SIG notes that employers that are incentivized to accommodate disabled workers where possible and assist in the return to work can prove effective.

Additionally, SIG suggests states adopt temporary and partial disability, mandate private long-term disability coverage, create an intervention period where an applicant is required to meet with a case manager to explore alternatives and evaluate the likelihood of recovery and rehabilitation, and develop portable partial income-replacement accounts with tax favored contributions from employers and employees.

For SSI, SIG suggests many of the reforms that made the 1996 welfare reform successful. First, SSI funds ought to be allocated to the states in the form of a block grant that allows states to share 50/50 with the federal government in any savings or excessive costs. SIG suggests for children receiving SSI that the cash benefits "instead be allocated for services to the child such as case management aimed at improving the child's adaptation and future outcomes."<sup>36</sup> For adults and children alike, vocational training, rehabilitation, and work assistance ought to be required for those that are most likely to recover and participate in the workforce.

For states to encourage the adoption of a federalist solution to SSDI and SSI, they will have to recognize that the needs of their citizens, their economy, and their workforce are too great to allow the federal government to maintain status quo disability programs that are costly in terms of labor force participation and lost human potential.

**RECOMMENDATION:** A federalism solution to disability is the most bold and promising reform solution. Big federal reforms in an age of intense political polarization are unlikely to help Wisconsin or other states meet their workforce needs and care for disabled workers. Like welfare reform in the 1990's, the federal government needs to devolve these programs back to the states in the form of block grants. When states have the ability and incentive to innovate, they have proven time and again to effectively do so. The Secretaries Innovation Group has done invaluable thinking on what state-level management could look like and why it would be preferable.



## CONCLUSION

When the Social Security Trust Fund was facing depletion in 2016, many thought federal disability was on the verge of long-needed reform. But even this crisis could not spur but modest action to stave off insolvency. While growth trends in enrollment and costs have plateaued due to a strong economy, the case for reform has not abated.

For states like Wisconsin who face a labor shortage, the working age population on federal disability ought to serve as matter of concern. In communities across the Badger State, thousands have taken themselves permanently out of the labor force in their quest to secure SSDI or SSI. Without reform, federal disability programs will push too much human potential to the sidelines when our economy, our communities, and our families need everyone contributing.

## Appendix A: Social Security Disability Insurance Eligibility

SSDI applicants must have accrued a certain number of credits before they qualify. Each \$1,320 of past earnings counts as one credit.<sup>37</sup> An applicant can earn a maximum of four credits per year of work, or just over \$5,000 in income per year.<sup>38</sup> The number of credits necessary for qualification depends on a worker's age. For workers disabled between age 21 and 30, between 6 and 18 credits will qualify. Applicants between the ages of 31-52 need 20-30, and age 50-67 need 30-40 credits. For most applicants, this will come out to about 5 to 10 years of work.

If an applicant's work history qualifies, the Social Security Administration has established a five step process to determine eligibility that is used for adults applying for SSDI or SSI. Failure to fully meet any step is intended to prevent an applicant from receiving benefits.

1. **Is the individual working?** SSDI applicants must prove that they are not engaged in "substantial gainful activity." If an applicant's monthly earnings eclipse \$1,180 per month they are automatically disqualified.<sup>39</sup> Anything less and they proceed to the next step.
2. **Is the condition "severe"?** According to SSA, applicants must provide "objective medical evidence" from an "acceptable medical source."<sup>40</sup> The agency then "considers all evidence from all medical and nonmedical sources to assess the extent to which a claimant's impairment(s) affects his or her ability to function in a work setting."<sup>41</sup> If an applicant's medical evidence is inadequate or in doubt, SSA can order an independent consultation.
3. **Does the individual have an impairment that meets or equals one that is described in SSA's Listing of Impairments?** SSA has codified a listing of impairments "for each major body system, impairments considered severe enough to prevent an individual from doing any gainful activity."<sup>42</sup> Impairments to Musculoskeletal and Connective Tissue Problems (33%), and Mental Disorders (26%) represented half of applicants' disorders in 2017.<sup>43</sup>
4. **Can the individual do the work he or she previously did?** SSA evaluates applicants to determine if they are incapable of doing their past work, typically taking into account all jobs done in the last 15 years and how that work is done in the national economy.<sup>44</sup>
5. **Can the individual do any other type of work?** If an applicant is determined to be disabled through the first four steps, SSA makes a determination on whether they could work in other types of work. The evaluation considers age, training and education, and whether certain workforce skills could be transferred to another job.<sup>45</sup>

Applicants deemed eligible for SSDI benefits are required to wait five months before they receive monthly cash benefits. For disabled workers, monthly benefits are determined through a complex formula with the following variables.<sup>46</sup>

- Average Indexed Monthly Earnings (AIME) – This is an average monthly wage for every year of work after age 21, minus one-fifth or 5 years (whichever is greater) of a worker's lowest earning years.
- Primary Insurance Amount – This is the amount a beneficiary will actually receive each month. Using the AIME, SSA uses three "Bend Points" that together determine the amount of a monthly benefit.
  - Bend Point 1 – 90% of the first \$885
  - Bend Point 2 – 32% of earnings between \$885 and \$5,336
  - Bend Point 3 – 15% of earnings above \$5,336

## Endnotes

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