

First some background. Some Members may be aware that attorneys can choose to have SSA directly pay their fees for representing claimants for Social Security disability benefits. In such cases, when the claimant is awarded past-due benefits SSA withholds the appropriate attorney's fee from the benefits that are owned the claimant, and sends the fee directly to the attorney. Prior to this year, no charge was made for SSA costs in processing, withholding, and forwarding this fee.

This was changed under a proposal originally made by the Clinton Administration that was incorporated in the Ticket to Work and Work Incentives Improvement Law, which is designed to help disabled individuals enter or return to the workforce. This law provides new medical and employment services to help individuals with disabilities find and keep jobs without fear of losing important benefits once they leave the disability rolls. That's a critical goal, and one that requires additional resources. In determining ways to pay for the added benefits in the "Ticket" law, many people on both sides of the aisle thought that having lawyers—rather than the Social Security trust funds—pick up the tab for Social Security's costs in processing their paychecks was appropriate. Thus a version of the original Administration proposal on attorney fees was included in the final conference agreement on the Ticket bill approved by the House of Representatives 418-2 on November 18, 1999.

As this legislation progressed, several changes were made that improved the original proposal. For example, the General Accounting Office is required to study whether the assessment should be linked to how quickly SSA processes fees and whether the assessment will reduce the number of claimant representatives available to assist these claimants, among other issues.

The legislation I am introducing addresses this issue and thus can serve as the basis for further discussion and possible legislation on this point. In short, my legislation would specify that Social Security could impose an assessment on an attorney's fee only if the fee was processed and approved for payments within 30 days after the Commissioner certifies the payment of the claimant's benefits. This will encourage Social Security to handle this work promptly. If they don't SSA will lose money and attorneys will not be charged their assessment. Hopefully it will not come to that, but in the past SSA has not had a stellar record in terms of processing this workload in a timely fashion.

Introducing this legislation now will serve to further discussion on this topic, especially in anticipation of an upcoming hearing I plan to hold in the Social Security Subcommittee on additional process reforms. Suggested reforms include: the consideration of a flat fee as opposed to a percentage of past-due benefits, the extension of the attorney's fee direct payment provisions to the Supplemental Security Income program, the issuance of past-due benefits and the attorney's fee in a joint check made payable to the beneficiary and the attorney and the application of Prompt Payment Act provisions to past-due benefits and attorney fee payments. These suggested reforms follow this statement in legislative form.

I would appreciate any comments or suggestions for additional provisions my colleagues or other informed individuals may have on this issue, and of course would welcome cosponsors to this legislation. Already we have heard from many claimant representatives, and I would expect to hear from many more as we move on with this issue.

SUGGESTED PROVISIONS FOR ATTORNEY FEE
PAYMENT LEGISLATION
STREAMLINING OF ATTORNEY FEE PAYMENT
SYSTEM

(a) MAXIMUM LIMIT ON ASSESSMENTS.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by striking "equal to" and inserting "equal to the lesser of—";

(2) by striking "the product obtained" and inserting the following: "(i) the product obtained";

(3) by striking "subparagraph (B)." and inserting "subparagraph (B), or"; and

(4) by adding at the end the following new clause: "(ii) \$25.00."

(b) ISSUANCE OF JOINT CHECKS.—

(1) IN GENERAL.—Section 206 of such Act (42 U.S.C. 406) is amended by adding at the end the following new subsection:

"(e) ISSUANCE OF JOINT CHECKS.—In any case in which a claimant is determined to be entitled to past-due benefits, and such claimant is represented by an attorney for whom a fee for services is required to be certified under this section in connection with such benefits, the payment of such past-due benefits shall be in the form of a joint check made payable to both the claimant and the attorney in an amount equal to the total amount of such past due benefits, which shall be sent to the claimant's attorney. Receipt by the claimant's attorney of the proceeds of such check in an amount equal to the fee for services certified for payment by the Commissioner pursuant to subsection (a)(4)(A) or (b)(1)(A) in connection with such past-due benefits shall constitute receipt by the attorney of such fee."

(2) ASSESSMENT ON ATTORNEY CONTINGENT UPON TIMELY RECEIPT OF PAYMENT.—Section 206(d)(3) of such Act (42 U.S.C. 406(d)(3)) is amended—Section 206(d)(3) of such Act (42 U.S.C. 406(d)(3)) is amended—

(1) by striking "The Commissioner" and inserting the following:

"(A) IN GENERAL.—The Commissioner"; and

(2) by adding at the end the following new subparagraph:

"(B) IMPOSITION AND COLLECTION OF ASSESSMENT CONTINGENT UPON TIMELY RECEIPT OF CHECK.—The Commissioner may impose and collect the assessment under this subsection in connection with any past-due benefits only if the joint check required under subsection (e) in connection with such benefits is received by the attorney within 45 days after the certification by the Commissioner for payment of such benefits."

EXTENSION OF ATTORNEY FEE PAYMENT
SYSTEM TO TITLE XVI CLAIMS

(a) IN GENERAL.—Section 1631(d)(2)(A) of the Social Security Act (42 U.S.C. 1383(d)(2)(A)) is amended—

(1) by striking "paragraph (2)" and inserting "subsections (a)(2) and (b)(1)(B)";

(2) by striking "section 406(a) (other than in paragraph (4) thereof)" and inserting "section 406";

(3) in clause (i), by striking "subparagraphs (A)(ii)(I) and (C)(i)" and inserting "subsections (a)(2)(A)(ii)(I), (a)(2)(D)(i), and (b)(1)(B)", by striking "as determined", by

striking "1127(a))" and inserting "1127(a)", and by striking "the parenthetical phrase contained therein" and inserting "the phrase 'before any applicable reduction under section 1127(a)'" ; and

(4) in clause (ii), by inserting ", in subsections (a)(2)(B) and (b)(1)(A)(i), the phrase" after "substituting", and by inserting "the phrase" after "for".

EXTENSION OF THE PROMPT PAYMENT ACT TO
THE SOCIAL SECURITY ADMINISTRATION'S
CLAIMS AND ATTORNEY FEE PAYMENT SYS-
TEMS

(a) IN GENERAL.—Section 3901 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) This chapter applies to the Social Security Administration with regard to delays in the payment of claims under Title II and Title XVI of the Social Security Act and to the certification for the payment of fees to attorneys under sections 206 and 1631(d)(2) of the Social Security Act (treating, for purposes of this chapter, the required certification by the Commissioner of Social Security for payment of any fees as a required payment by the Commissioner of such fees).

"(2) In applying this chapter to the Social Security Administration pursuant to paragraph (1)—

"(A) the date of issuance of the award certificate by the Social Security Administration shall be deemed to start the payment period under 5 CFR 1315.4(f); and

"(B) the documentation required by the Social Security Administration to certify a claim or fee payment under title 42, United States Code shall be deemed to satisfy the documentation requirement of 5 CFR 1315.9".

DEPARTMENTS OF LABOR,
HEALTH AND HUMAN SERVICES,
AND EDUCATION, AND RELATED
AGENCIES APPROPRIATIONS
ACT, 2001

SPEECH OF

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 8, 2000

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4577) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

Mr. HINOJOSA. Mr. Chairman, I rise today in strong support of the amendment on 21st century community learning centers.

I have been involved with education issues for almost 30 years. This experience has strongly reinforced for me that all children, regardless of income level or race have the same potential for high achievement and healthy development when provided appropriate opportunities.

Thus, our goal must be to support the development of quality afterschool programs for all children, but especially those in low-income communities.

Our goal should also be to see the expanded-day programs linked to the core school day.

After-school programs are the best structures for the development of such programs, as well as other services needed in low-income communities. They can serve as pathways to developing strong, sustainable community schools.

We definitely are not utilizing them enough.

More than 77 percent of the 21st century community learning center funding goes to low-income youth. And with the changing new mix of technologies and competitive markets, our economy is increasing its demand for skilled labor and decreasing demand for unskilled or semi-skilled labor. This means we can use these centers to focus on expectations for the core school day and its relation to the changes.

This is important because for the first time in history, the Nation's economic and social well-being requires that all children be prepared for post-secondary education and career attainment.

Although our public education system was never designed to prepare our students for higher education, after school programs seek to provide vital opportunities for children and youth to learn and to prepare for college and careers in the new economy.

After-school programs achieve these goals by providing access to information technology and related learning services for children. This is especially critical because we have an opportunity to support an initiative that is really about local impact and local opportunity.

We must bring balance to our communities! Afterschool programs keep students occupied with productive activities during the hours they are most likely to get into trouble, from 2 to 8 pm.

We can support local and state efforts to sustain a much larger national community school movement than has ever been possible before. New research indicates that after-school programs can make a positive difference in student development and academic performance.

This is especially true for our low-income students. This initiative may be the greatest opportunity to help children at a critical point in their young lives.

I'm particularly supportive of this initiative because it means that children who need extra help will be able to receive more attention. For these reasons, Mr. Chairman, I urge members to support this amendment.

TRIBUTE TO MR. BERT M.
CONCKLIN

HON. THOMAS M. DAVIS

OF VIRGINIA

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 9, 2000

Mr. DAVIS of Virginia. Mr. Speaker, I and my colleague rise to bring to your attention the contribution of a distinguished individual who is returning to government service.

Last month, Mr. Bert M. Concklin announced he was stepping down as president of the Professional Services Council, a national trade association that represents a very large number of our constituents, to return to federal government service. Bert will soon as-

sume the post of Business Systems Modernization Executive at the Internal Revenue Service.

We both know Bert well and are confident that he will be a tremendous asset to the agency. Bert has been a leader in the government-wide reform efforts over the past decade where he has brought his keen insights, strong determination, and balanced judgment to bear on one of the federal government's most difficult undertakings. It is because of this background, as well as his substantial achievements in the private sector, that we feel secure in our prediction that he will positively impact the agency's goals.

Aside from his service as a key advisor to federal agencies and Congress on tough issues, such as contracting reform and government-wide business process re-engineering, and in addition to his having held a number of high-level government positions. Bert has an impressive track record with some of our country's best-known corporate names, including PRC, McKinsey and Company, Computer Sciences Corporation, and General Electric. He also served as chairman of the Governor's Council on Information Management of Virginia. He served in the United States Air Force and graduated from the United States Naval Academy.

We are pleased to take this opportunity to recognize the valuable contributions of someone who has clearly demonstrated his passion for reform, government services, and bipartisan cooperation.