

NADR

National Association of Disability Representatives

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January 29, 2010

The Honorable John Tanner, Chairman
Subcommittee on Social Security
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Jim McDermott, Chairman
Subcommittee on Income Security
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Sam Johnson, Ranking Member
Subcommittee on Social Security
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

The Honorable John Linder, Ranking Member
Subcommittee on Income Security
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Tanner and McDermott and Ranking Members Johnson and Linder:

On behalf of The National Association of Disability Representatives (NADR), a professional organization comprised of non-attorneys and attorneys who assist people in applying for disability income assistance from the Social Security Administration, I am writing to offer our strong support for H.R. 4532, the "Social Security Disability Applicants' Access to Professional Representation Act of 2010." The legislation will make permanent two provisions included in the Social Security Protection Act of 2004 (SSPA), P.L. 108-203, designed to improve access to representation for claimants applying for Social Security disability and Supplement Security disability benefits. Both programs are scheduled to sunset on February 28, 2010.

Withholding and Direct Payment of Fees in SSI Cases

Section 2 of the proposed legislation amends Section 302 of the SSPA to permanently extend fee- withholding procedures for attorneys and qualified non-attorney representatives to claims under Title XVI of the Act. This provision of the SSPA has increased opportunities for SSI claimants to obtain representation and should be extended. Without Title XVI fee withholding, the most vulnerable among us may be unable to get the help they need in negotiating the Social Security claims process.

Fee Withholding for Qualified Non-Attorney Representatives

Section 3 of the bill makes permanent a demonstration program established in Section 303 of the SSPA to examine the effectiveness of non-attorney representatives who qualify for fee withholding by possessing a bachelor's degree (or equivalent experience), passing an examination, securing liability insurance, undergoing a background check and demonstrating ongoing completion of qualified courses of continuing education. The Government Accountability Office released a report in October 2007 analyzing the performance of non-attorney representatives in disability cases before the Social Security Administration. The study results indicated that non-attorney representatives who met the criteria necessary for fee withholding demonstrated levels of knowledge and success rates at least equal to that of practicing attorneys.

The demonstration program has proven to be extremely effective in improving access to qualified representatives for claimants. Just as important, many NADR members work with claimants from the initial application, which serves not only to expedite valid claims, but also to provide counseling that can weed out inappropriate cases before they enter the system. Once a claimant does enter the system, qualified representatives who understand the requisite objective documentary needs can assist the claims examiner and adjudicators to gather this critical information in a timely manner. All this leads to savings of time and resources.

Access to an experienced and qualified representative to guide claimants through the lengthy and often-confusing disability-claims process is key to a timely and well-informed decision by SSA. For all these reasons, NADR urges the House to pass H.R. 4532 as quickly as possible in order to ensure that these fee-withholding provisions remain in effect without interruption.

Sincerely,

A handwritten signature in dark ink, appearing to read "Scot E. Whitaker". The signature is fluid and cursive, with a large, stylized "S" at the beginning and a horizontal flourish at the end.

Scot E. Whitaker
President