Oral Statement

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Good morning. Chairman Johnson, Ranking Member Larson and members of the Subcommittee. Thank you for the opportunity to testify at today's hearing. My name is Lisa Ekman, I am the Government Affairs Director for the National Organization of Social Security Claimants Representatives or NOSSCR. I am testifying on behalf of the Co-Chairs of the Social Security Task Force of the Consortium for Citizens with Disabilities or CCD.

The Social Security disability programs provide modest but vital benefits to millions of people with disabilities so severe they are unable to perform substantial work, many of whom would live in abject poverty and be homeless without them. The Task Force appreciates the efforts of members of this Subcommittee to provide SSA with funding dedicated to reducing the backlog included in SSA's operating budgets for 2017 and 2018.

However, despite that funding people are still waiting too long for a decision - about 600 days. This has devastating consequences -- some people lose their homes, declare bankruptcy, and some even die.

Recent changes to the disability adjudication process purportedly designed to reduce the backlog have instead created procedural barriers to accessing benefits and tilted the playing field toward denials even for people who meet the statutory definition of disability contained in the Social Security Act.

SSA is in the process of making another highly controversial change to its disability process that will lead to greater delays and more inappropriate denials: reinstituting reconsideration in ten states.

The CCD Task Force has long supported the nationwide elimination of reconsideration. SSA generally takes no meaningful steps at this stage to ensure that additional evidence is obtained to help it reach the right decision. Making all claimants go through this level of review adds an average of 101 days to the wait time of the vast majority of claimants before they can request a hearing before an ALJ – which is the first time a disability claimant ever talks to or meets an adjudicator. Far more people will have to wait longer to receive their benefits than will get them earlier as a result of this proposed change – seven out of eight people are denied during reconsideration. Worse, thousands of claimants will not ever receive the benefits they are eligible for – many who meet the statutory eligibility criteria will abandon their appeals because of this procedural hurdle.

SSA is making this change without conducting a thorough and publicly-available evaluation of its 20-year disability prototype experiment. The decision to reinstitute reconsideration is not based on data or evidence.

Rather than reinstituting reconsideration, SSA should eliminate it and dedicate the resources currently used for reconsideration in 40 states to improving the initial determination process, with a particular focus on better development of the evidentiary record. The CCD Task Force recommends the following steps be taken to improve initial determinations:

First, SSA should offer to have in person meetings with as many claimants as possible, as soon as possible, to inform them about the process and what evidence is useful to SSA in making a determination. Previous pilots have found this simple step helps SSA arrive at the correct decision sooner, especially for unrepresented claimants.

Second, SSA should improve the forms and guidance provided to treating physicians and consultative examiners to better explain what evidence is useful to SSA, and elicit that evidence.

Third, SSA should make claimants aware of the availability of representation at the initial level.

Reinstituting reconsideration would add another procedural hurdle to the tilted playing field that other recent changes to the disability process have created. These are discussed more fully in my written testimony, but I will provide a couple of examples.

First, SSA changed its longstanding and court-approved rules regarding how it weighs evidence provided from a claimant's own physician. Instead of giving the highest weight possible to the opinion of a doctor who has treated a claimant for years, SSA adjudicators can now give greater weight to the opinion of an SSA consultant who performed a cursory exam, or even a paper file review by a doctor who has never even met or examined the claimant. A second example is requiring a claimant to submit all evidence that relates to his disability, even if not relevant to the decision, creating huge files that increase processing time but not decisional accuracy. Finally, SSA created arbitrary deadlines for the submission of evidence that results in the exclusion of relevant evidence from consideration, leading to more appeals to the Appeals Council and Federal Court.

To sum up, SSA has recently made regulatory changes that tilt the playing field against eligible claimants and create procedural hurdles to accessing benefits. Reinstituting reconsideration is a step in the wrong direction harming significantly more people than it helps. When SSA previously tried to reinstate reconsideration, it had to withdraw its plan in the face of Congressional opposition. I urge Congress to weigh in again. Thank you again for the opportunity to testify today and I am happy to answer any questions you might have.