

## **A DIALOGUE ON REFORMING DISABILITY INSURANCE: Supporting Economic Freedom for People with Disabilities**

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### **SYNOPSIS**

*In 2006, the World Institute on Disability (WID) put forward a variety of policy proposals to improve the Social Security Disability Insurance (SSDI) system, aimed at ensuring that people with disabilities have the opportunity to fully participate in the workforce and be economically self-sufficient. A central proposal that came out of this project is the creation of a work support and supplemental income insurance program that would help to decrease attachment to the SSDI system and increase attachments to the workforce.*

*In 2010, the Center for American Progress (CAP) and The Hamilton Project (THP) jointly released a paper outlining a similar policy proposal, with key differences in approach. What follows is WID's response to the CAP/THP paper, written with the intention of furthering the public discussion on this important issue.*

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### **BACKGROUND**

Over the past three decades, the World Institute on Disability (WID) has been a thought leader on how to provide better work supports for people with disabilities.<sup>1</sup> In 2006, WID led a collaborative project, funded by the JP Morgan Chase Foundation and The California Endowment. The project began with a series of policy discussions with social insurance and tax policy analysts, which developed into a set of policy proposals to transform Social Security, Medicare, and disability tax law. The proposals were documented in "Being American: the Way Out of Poverty," by Bryon R. MacDonald and Megan O'Neil.

In December of 2010, the Center for American Progress (CAP) and The Hamilton Project (THP) jointly released a paper entitled "Supporting Work: A Proposal for Modernizing the U.S. Disability Insurance System," by David H. Autor and Mark Duggan.

WID would like to commend the CAP/THP report for its role in continuing this important public discussion on the need to reform the U.S. disability insurance system and to strengthen the connections between people with disabilities and the workforce.

## **PROPOSAL SIMILARITIES**

There are many philosophical similarities between the approaches developed in these two proposals. Both recognize that SSDI is a necessary safety-net for people that have to leave the workforce due to a disability, but that SSDI is flawed and outdated. Both agree that the current SSDI system creates disincentives for people to work and is marginally successful at helping people re-enter the workforce. As a result of complex factors, the SSDI system continues to grow and is in danger of becoming financially unsustainable. Both proposals recognize the urgent need for reform, with an end goal of increasing employment and self-sufficiency among people with disabilities. There is also mutual agreement that the current SSDI system, which requires a person to prove a significant inability to work in order to qualify for benefits, is inherently ineffective at providing necessary supports to help someone re-enter the workforce.

To remedy this problem, both the WID and CAP/THP proposals have assessed that the U.S. needs two disability insurance systems, with different purposes:

1. A long-term wage-replacement system, for people who are unable to work.
2. A work support and partial-wage-replacement system, for people who are disabled, but able to work when the right supports are present.

The two-insurance-plan model would increase attachment to the workforce and improve employment rates for people with disabilities, while reducing the burden on the SSDI long-term wage-replacement system.

## **PROPOSAL DIFFERENCES**

There are some key areas where WID's approach differs from CAP/THP's. WID's project "Being American: the Way Out of Poverty" presents a variety of separate policies aimed at helping people with disabilities avoid poverty and be economically self-sufficient, through a strong, stable attachment to the workforce. These policies include improving tax credits for workplace accommodations and healthcare, improvements to SSDI administrative policies, and supplemental partial-income insurance and work supports, called Earnings Support Insurance (ESI). The CAP/THP paper, on the other hand, focuses in great detail on one specific proposal for a private work support and partial-wage-replacement insurance system. Thus, we focus here on comparing the two-insurance-plan models that are proposed by WID and CAP/THP.

While both propose a work support and partial-wage-replacement insurance system, separate from the current long-term wage-replacement insurance system, WID proposes a public insurance program called Earnings Support Insurance (ESI), while CAP/THP proposes private employer-based insurance called Private Disability Insurance (PDI).

ESI is a public program and would be funded by the Federal Insurance Contributions Act (FICA) tax. Similar to SSDI and the Old-Age, Survivors and Disability Insurance Trust Fund (OASDI), the amount you pay into the ESI trust over time would determine the monthly income you would receive if you needed to draw benefits. Alternatively, PDI is based on a universal version of the current private disability insurance system, which would provide wage-replacement and work supports, including vocational rehabilitation and reasonable accommodations, to employees that acquire a disability. PDI is based on a model similar to Workers' Compensation (WC) and Unemployment Insurance (UI) and is purchased by the employer as part of the employee's benefits package. Also similar to WC and UI, under the PDI proposal employers would be

charged premiums based on experience ratings relative to industry standards and frequency of insurance claims.

The differences between WID's and CAP/THP's approaches with regards to range of benefits offered, implementation method, and funding mechanisms will affect program utilization and, ultimately, workforce participation of people with disabilities.

Fundamentally, WID takes a person-centered approach to our policy reform recommendations, in line with the values of the disability rights movement. WID believes that the best way to achieve this person-centered focus is through a public social insurance system of work supports and partial-wage-replacement. In the long run, WID argues that a public system could be more beneficial to the individual, the employer, and the economy. However, the differences with CAP/THP's proposal are not irreconcilable; by increasing the public dialogue, we hope to encourage the development of innovative ideas and proposals, which could include an insurance system based on a public/private hybrid.<sup>ii</sup>

### **INDIVIDUAL OUTCOMES**

From an individual rights perspective, a public social insurance system allows for more choice and career growth potential. Under the public ESI model, the work supports and benefits are attached to the person and their work history, whereas under the private disability insurance model, the supports and benefits are more attached to the employer through which the employee gets the private insurance.

With the ESI system, a person can freely move to different employers while trying to find the work situation that best meets their needs and allows them to work to their fullest capacity, before and after becoming disabled. In a private system, a person may remain attached to a job that is no longer a good fit, only because that is where they receive their benefits and work supports. Allowing people to move freely in the workforce has economic advantages, helps to keep people with disabilities employed to their fullest potential, and allows for freedom of choice.

### **EMPLOYER OUTCOMES**

In the employer-employee relationship, a public system removes the issue of a person's disability from the hiring process. Unlike under a private system, in a public system an employer would not have to worry about how hiring a person with a disability might affect their experience rating or insurance premiums, eliminating a disincentive to hire people with disabilities. This lets an employer to focus on hiring the best person for the job regardless of disability, allowing more people with disabilities to remain successfully in the workforce, and off of SSDI.

Under a PDI system, a third party is making decisions about work supports and workplace accommodations, with profit as the motivating factor behind those decisions. There is an incentive to deny disability claims, and to institute the cheapest work supports possible. With a public system that includes tax credits that employers could claim for workplace supports and accommodations, the cost of the supports would no longer be a concern for employers. Rather than a third party making decisions to push down costs, there would be a discussion between the employer and the employee about the best supports to help the employee be most effective at the

job and reach her fullest potential. While the employer in a private insurance system is incentivized by keeping costs down, the employer in a public system is incentivized by having the best, most productive employee, regardless of the varying cost of workplace accommodations.

## **ECONOMIC OUTCOMES**

A PDI system focuses on a portion of the working-age population: people who are already employed and become disabled while they are working, and helping them remain in the workforce. While this is important, it overlooks people with disabilities who are not currently working or tied to an employer, but still have the potential to work. To benefit from the public ESI system, a person would have to have paid into the system, but would not have to be currently employed.

In times of recession and high unemployment, substantial research shows that SSDI applications go up. We need a system that not only keeps people attached to the workforce when they first become disabled, but also supports people returning to the workforce when they have become separated from it due to disability, unemployment, underemployment, or other life changes.

A public social insurance system designed to be portable and transferable from job to job recognizes that people with disabilities have varying relationships to the workforce, sometimes working part-time, from home, or in other arrangements. The ESI system allows for flexible employment relationships that involve part-time work, self-employment, and episodic breaks in employment.

Based on decades of research showing that the longer someone is separated from the workforce, the harder it is to re-enter the workforce,<sup>iii</sup> both the ESI and the PDI system designs encourage people to stay attached to the workforce when they first become disabled. This would decrease the rate at which people enter the SSDI system. However, the ESI system would also support people who are not working and are currently on SSDI, but are able to leave SSDI and return to work, which would increase the outflow from the SSDI system. Therefore, the ESI system would be more effective over time at reducing SSDI costs.

## **FURTHER DISCUSSION**

CAP/THP's recent publication of "Supporting Work: A Proposal for Modernizing the U.S. Disability Insurance System" re-introduced supplemental wage-replacement insurance into the public discourse. WID thoroughly supports this effort to bring attention to the issue and looks forward to continuing this policy discussion about economic inclusion for all.

Without a significant shift in how we think about employment supports in this country, many people with disabilities will not be able to enter or re-enter the workforce and will continue to live in poverty. Progress to reform the SSDI system has been slow, in part because of the complexities cited in both proposals.

When considering the differences between a private and public social insurance system, there are many factors to take into account. For example, we need to look at complexities created by a private system, such as the appeal and litigation structure that would accompany it. Additionally,

CAP/THP does not discuss health insurance, relying on the changes of the Affordable Care Act (ACA) to provide insurance for people with disabilities. Because of the many uncertainties of ACA implementation, WID believes health care - a primary concern for people with disabilities when considering returning to work or changing jobs - must be an integrated and in-depth part of this discussion.

There is also room for discussion about public/private hybrid social insurance models, one example of which is the ACA's Community Living Assistance Services and Support (CLASS) Act. The ideas and directions put forth by CAP/THP and WID should not be thought of as conclusions on this issue, but rather as a starting point for further discussion and innovation.

In order to figure out effective answers to complex problems such as these, it is critical to include the voices of those who are directly affected – employed and unemployed people with disabilities who have navigated the SSDI system and seek to be more economically self-sufficient.

There is no shortage of Americans with disabilities, employers, health plan administrators, public policy analysts, researchers, and policymakers who have the knowledge and experience to lead a reshaping of the Social Security and private disability insurance systems. WID envisions a convening of these key stakeholders, which could include the Center for American Progress and The Hamilton Project, in order to shape a concrete proposal that takes into account the needs of all stakeholders. Such a proposal could create a path out of poverty for people with disabilities and move the U.S. towards full economic inclusion for all.

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<sup>i</sup> Ed Roberts, a co-founder of WID, was a founding member of the Return to Work Group whose policy recommendations helped to shape the Social Security Ticket to Work Program, which became law in 1999. In 2006, WID was a founding member of the California Consortium on Stay at Work/Return to Work that continues to meet monthly at WID. CA Consortium participants include national employer disability management programs, third party administrators, health care plan providers and other national topical experts.

<sup>ii</sup> The Community Living Assistance Services and Support (CLASS) Act, as a key component of the Affordable Care Act (ACA) of 2010, is an example of a recent hybrid policy reform based on social insurance principles.

<sup>iii</sup> For example, see GAO, *SSA Disability: Return-to-Work Strategies from Other Systems May Improve Federal Programs*, GAO/HEHS 96-133 (Washington D.C.: July 11, 1996). Also see Sheila H. Akabas, Lauren B. Gates, Donald E. Galvin, et al., *Disability Management: A Complete System to Reduce Costs, Increase Productivity, Meet Employee Needs, and Ensure Legal Compliance* (American Management Association: 1992).