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A New Approach to SSA Disability Determinations – The NADE View Position Paper of the National Association of Disability Examiners

After carefully reviewing the current status quo of the Social Security disability claims process and the future challenges facing the program, the National Association of Disability Examiners (NADE) fully supports and agrees with the testimony presented by the Commissioner of Social Security before the House Committee on Ways and Means Social Security Subcommittee on September 25, 2003, that, –“...designing an approach to fully address the central and important issues raised by the President required a focus on two over-arching operational goals: (1) to make the right decision as early in the process as possible and (2) to foster return to work at all stages of the process.”

In designing NADE's View to a New Approach to SSA Disability Determinations, SSA Commissioner Barnhart's two over-arching operational goals are at the forefront of our recommended approach, as well as the following additional goals:

- designing a process that adds value at each step
- designing a process that builds upon existing expertise, and
- designing a process that keeps the focus on improved public service.

NADE fully supports in-line quality assurance and centralized end-of-line quality control reviews for all compo-

nents. In-line and centralized end-of-line reviews have been built into our flow chart (see page 10) at all steps of the process.

NADE fully supports closing of the adjudicative record. NADE continues to believe that closing of the adjudicative record should occur earlier in the process as a means to shorten the appeals process and to ensure that appeal decisions represent a comprehensive review of the technical and substantive accuracy of the initial decision and a legal decision to address points of law. However, since this view does not have widespread support, NADE does support closing the record after the Administrative Law Judge's decision since this decision will, in fact, represent the final decision of the Commissioner of Social Security before any subsequent appeals to the federal courts.

NADE also fully supports the elimination of the Appeals Council. We agree with Commissioner Barnhart that little value is added at this step of the process which is very costly and adds unnecessary time to the process.

NADE continues to support the creation of a Social Security Court. As long as judicial review of disability appeals continues to occur in multiple district courts across the country, a bifurcated

disability process will continue to exist as different DDSs operate under different court rulings and regulations depending upon what part of the country the claimant lives in.

Below are the specific details regarding NADE's view on a new approach to SSA Disability Determination (see attached flow chart, page 10).

AeDIB:

NADE agrees with Commissioner Barnhart that the successful implementation of AeDIB is a critical feature of any new approach to SSA disability determinations. NADE remains very supportive of these new technologies as a means for more efficient service to the public. In order for this initiative to be successful, it is critically important and an absolute necessity that adequate infrastructure support and proper equipment to make the process work effectively and efficiently is in place. Without sufficient support, adequate resources and proper equipment, any attempts at an efficient paperless process will meet with failure.

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National Organ Donor Awareness Week April 18-25
Tell Your Family!

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President's Message

I am pleased to announce that NADE has just recently completed two new position papers, both of which you will find in this issue. Both position papers received unanimous Board approval.



"A New Approach to SSA Disability Determinations - The NADE View" was compiled after review of the numerous comments, feedback, suggestions, position papers and other items shared with the NADE President and other members of the NADE National Board on SSA Commissioner Jo Anne B. Barnhart's "New Approach to SSA Disability Determinations" announced at the September 25, 2003 hearing held by the House Committee on Ways and Means Social Security Subcommittee. NADE's "view" was shared with SSA Commissioner Barnhart on March 11, 2004, as well as other members of SSA, the Social Security Advisory Board, the General Accounting Office, the Office of Management and Budget, the Congressional Budget office, the National Academy of Social Insurance, the National Academy of Sciences and the American Association of Retired Persons. In addition, this paper was shared with various Congressional committees in the House and Senate that exercise oversight over the Social Security and Supplemental

Security Income disability programs. I want to thank all those who took the time to share their thoughts and ideas with me on how to improve the disability process.

The "Disability Examiner Position Paper" updates NADE's Disability Examiner position paper that was first issued in 1986. We all know the many changes that have occurred and complexities that have been introduced into the Social Security Administration disability case adjudication process over the past almost twenty years and these changes and new program complexities have had a tremendous impact on the position of the Disability Examiner. This position paper defines the unique knowledge, skills and abilities required by the dedicated disability professionals who adjudicate Social Security disability claims. The committee that directed this update received a great deal of input from NADE's membership - the individuals dedicated to public service and who are entrusted to provide the highest quality of service to the American public. As such, this paper stands as a testament to what we have to say about what our job really is all about. I want to thank Marty Marshall, NADE's President-Elect, who chaired the committee that directed the updating of this position paper.

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NADE CALENDAR OF EVENTS:

Great Lakes	Adam's Mark Hotel	Columbus, OH	May 12-14, 2004
Great Plains/Pacific	Owyhee Plaza Hotel	Boise, ID	May 19-21, 2004
Southeast	Radisson Hotel	Birmingham, AL	April 27-30, 2004
Southwest	Holiday Inn Downtown	Shreveport, LA	April 20-23, 2004
2004 National Conference	Fairmont Hotel	Kansas City MO	Sept. 18-24, 2004

The NADE Advocate is the official publication of the National Association of Disability Examiners. It provides a forum for responsible comments concerning the disability process. Official NADE positions are found in the comments by the NADE President and NADE Position Papers.

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Letters to the Editor are welcomed and may be selected for inclusion in future issues. Please forward ideas for future *Advocate* topics to the editor or your Regional Publications Representative.

The next issue will be published in **May, 2004.**

All correspondence should be directed through your Regional Representative or directly to the *Advocate* editor no later than **April 15, 2004.**

You may e-mail articles in text format to **drhilton@sofnet.com**
Please also forward a hard copy.

The NADE Board had a very successful mid-year meeting and NADE members can be proud of how hard their elected and appointed leaders work to represent the interests and concerns of all NADE members, especially during these critically important times when we are faced with so many proposed changes in how we will do business in the future, when there are such limited resources available and when we must take charge of increasing workloads. Each member of the NADE Board brings, not only their own individual expertise and knowledge of the disability program, but they also bring the feedback that YOU – the member - provide to them. The NADE leadership is working hard to represent your interests as we move forward into the future. As we continue to move forward as a professional association and as the disability program continues to move forward with new technologies and new approaches, it is increasingly important that the voice of NADE, as the representative of those who do the work, be strong and that it be heard.

Elsewhere in this issue of the *Advocate*, you will read about the many meetings and discussions that occurred during NADE's mid-year Board meeting. NADE's Board of Directors welcomed individuals representing the General Accounting Office (GAO), the National Council of Social Security Management Association (NCSSMA), the National Council of Disability Determination Directors (NCDDD) and SSA's Deputy Commissioner for Systems and the Associate Commissioners for Disability Programs and Disability Determinations. We received the latest news about the electronic folder and the budget situation and had lively discussions on proposed process changes. The General Accounting Office thanked NADE leadership for its assistance in providing feedback for their recent report on SSA's Human Capital Management of the DDSs. NADE is quoted several times in the report and NADE officials provided feedback for the developing and testing of a survey of the DDS directors. NADE is pleased to have been part of this very important research project.

Mary Chatel, Director of SSA's Disability Service Improvement Initiative, and several of her staff met with the NADE Board and provided us with an update on the current status of the disability service improvement initiative. There is much work yet to be done and NADE's input and assistance is being requested as the process begins to unfold.

NADE leaders also met with Jo Anne B. Barnhart, the Commissioner of Social Security, and with Hal Daub, the Chairman of the Social Security Advisory Board, and his staff. We met with representatives from the Office of Management and Budget, the Congressional Budget Office, the National Academy of Social Insurance, the National Academy of Science and various congressional committees in the House and Senate that exercise oversight of the Social Security disability program. Throughout these meetings, NADE emphasized the need for sufficient resources to handle the mounting workloads and discussed the major impact of transitioning to an electronic folder and resultant productivity and case processing challenges. NADE remains very supportive of these new technologies as a means for more efficient service to the public but we also stressed the absolute necessity for adequate infrastructure support and proper equipment to make the process work effectively and efficiently.

NADE was also present at two very recent Congressional hearings – the House Appropriations Subcommittee on Labor, Health and Human Services, and Education and Related Agencies hearing on Social Security Administration's FY 2005 appropriation requests, and the House Ways and Means Subcommittee on Social Security hearing on the President's FY2005 budget request for SSA.

NADE leaders will continue with on-going discussions on proposed process changes and will be providing feedback, suggestions, and practical solutions on how SSA can more effectively and efficiently effectuate needed changes. NADE will also be working in collaboration with other interested disability groups to fashion and shape improvements in the disability program. NADE is committed to process improvements that will truly provide the top quality service that the American public wants and deserves and to support an affordable and cost effective process that makes sense to the public. NADE needs the active participation and support of its members as we move forward in this process. Each NADE member is critically important to the organization and you have an equal responsibility to ensure your elected and appointed leaders know your ideas and concerns so that we can collectively speak with one voice for our members.

NADE National Disability Professionals Week (NDPW) will be celebrated June 21-25 this year. I know that local NADE chapters are busy planning exciting events to celebrate and honor our professionalism and the valuable service you provide to the American public. This year's theme is "Exploring Uncharted Territory - Join the Exploration!" This is certainly a time of uncharted territory with the roll out of an electronic disability folder and significant changes in our business process. Please take time from your busy schedules during NDPW to explore, celebrate and share in the many events that will be occurring across the country. I wish that I could personally be present to participate in your local activities with you. However, since that won't be possible, I assure you that my thoughts and wishes will be with all of you, as each of us, individually and collectively, takes time during NDPW to "join the exploration" and reflect on our organization's values and mission, to recognize our commitment to quality claimant service and to honor each other and the professionalism each and every one of you bring to your job on a daily basis. I am truly honored to serve as the President of this association, representing all of the dedicated professionals who pay their annual dues to support the work of this organization and all that it stands for. NADE is working hard to ensure that its members are being heard during this journey through "uncharted territory."

Speaking of members, remember that June is time to renew your membership. I hope that as a member, you will not only continue to support our organization, but that you are so proud of what we have been able to accomplish that you will recruit at least one new member to join us. It is the strength of our membership that allows NADE to represent you during these critical times of change, mounting workloads and limited resources. Advocating on behalf of our membership and what NADE believes in takes money. To avoid the possibility of raising dues, I urge you to please convince others to "join the exploration" as we continue to "explore uncharted territory." Thank you.

Theresa B. Klubertanz

Terri Klubertanz
NADE President

NADE View, from page 1

The Front End:

In NADE's new approach, as in Commissioner Barnhart's new approach, intake of new disability claims at the local Social Security Field Office would not be significantly altered from the current practice. Initial, continuing disability review and appeal applications would still be initiated at the local Social Security Field Office.

NADE respects the unique and important role each component plays in disability case processing. We believe that it is critically important to build upon the expertise, unique knowledge, skills and abilities of the positions of the Claims Representative in the local SSA Field Office and the Disability Examiner in the state DDS. To that end, NADE recently updated its 1986 position paper on the disability examiner, which was shared with Commissioner Barnhart in February 2004. In addition, NADE, working in conjunction with the National Council of Social Security Management Associations, Inc. (NCCSMA), previously proposed improvements to the front-end of the disability process in our joint paper, "The Front End of the Disability Claims Process", which was shared with Commissioner Barnhart in December 2002.

The NADE/NCSSMA joint paper recognized the unique strengths of each position, the Disability Examiner and the Claims Representative, and stated, "Because of the complexity of adjudication of disability claims, responsibility for medical development and decision-making ... will continue to reside with the DDS. However, we believe we could explore ways to allow trained CRs to become more viable partners with DEs in the disability claim process."

NADE and NCSSMA also acknowledged in our joint proposal that "the nationwide implementation of the electronic disability claim folder and other technological advances such as teleconferencing, increases the potential for Disability Examiners (DEs) in the DDSs to participate in, or actually conduct, the medical portion of the initial, reconsideration and continuing disability interview. Incorporating the training and ex-

perience of disability examiners into the interview process could make a positive and significant impact. For example, utilizing Disability Examiners in the interview process would strengthen the initial observations of claimant credibility issues and a claimant's functional abilities. This partnering of Disability Examiners with Claims Representatives (CRs) in the claimant interview would greatly enhance the quality of the application process and, ultimately, the decision process."

NADE and NCSSMA also jointly proposed in our December 2002 paper: "In addition, the availability of this new technology would also make it possible for some Claims Representatives in SSA Field Offices to be trained to work as partners with the Disability Examiner in the DDS. When the DE cannot be involved in the claimant interview, either in person or through the use of technology, some CRs could be trained to provide the eyes and ears of the DE. With additional training, the CR would be able to include the type of detailed information needed to address many DE issues..."

NADE acknowledges that making either of these types of changes in the basic disability claims interview process would require incredible planning, team work and joint cooperation and collaboration with other components in the disability process, including potentially developing a different (or new) infrastructure. NADE also recognizes that these changes do not have widespread support, and thus, NADE believes that it would be difficult to implement them at this time. NADE continues to believe that collaboration and cooperation among the various components can have a very positive impact on the overall service delivery process, in both quality of service and processing time. Therefore, NADE believes that these types of initiatives should continue to be long-term goals for service delivery improvement.

NADE is heartened by SSA efforts to improve the quality of the disability application submitted to the DDS via training and edits built into the start of the electronic folder, the Electronic Disability Collect System. However, to pro-

duce this quality product, lengthened interview times are required and more resources need to be devoted to the front end of the process. NADE fully supports in-line quality at the front end and jointly proposed with NCSSMA that "a technical expert for disability located in the field office could enable this approach." NADE and NCSSMA jointly support that "establishing a 'Technical Expert for Disability Quality' or some other means of reinforcing in-line quality review is a concept that should be developed by SSA in consultation with our respective associations."

Demonstration Projects:

NADE fully supports all efforts to enable earlier access to health care, treatment and rehabilitation needs of disabled individuals, as well as efforts to assist those individuals who wish to return to work by providing them the needed services to allow them to do so. However, we do not believe there is a need to create another federal bureaucratic structure to identify and screen applicants for demonstration projects. Although few details are available regarding potential demonstration projects, it appears that individuals chosen for participation in these projects would be screened based upon age, education, work history and claimant allegations. This type of data is currently collected in the initial disability interview and using these types of screening criteria would not require system changes or other modifications to the existing process. Therefore, NADE believes that a trained "technical expert in disability" in a SSA Field Office could screen applicants for disability into these demonstration projects. Oversight of these projects could be done on a regional basis by regional expert units as proposed by the Commissioner of Social Security.

We believe that early intervention efforts will provide improved service to the American public by providing needed services earlier in their disease process and that has the potential to decrease the lifelong disability payments that some of our claimants eventually receive once they have been determined eligible for benefits. We are especially pleased to

see the moving forward of Youth Transition projects, as younger individuals with disabilities leave school and enter the work force.

NADE also believes that a "technical expert in disability" in the local Social Security Field Office is in the best position to serve as a case manager for ongoing employment support initiatives. Similar types of activities are currently being performed by Field Office employment specialists in the Ticket to Work program. NADE supports building upon and using this type of expertise for ongoing employment support initiatives. Local field office staff already handle all non-medical aspects of disability claims, such as determining technical eligibility of insured status, income, resources and performance of substantial gainful activity; calculating monthly benefit eligibility amounts; calculating trial work period, extended period of eligibility and 1619 provisions and performing annual redetermination eligibility reviews. NADE feels that there are many efficiencies inherent in local field offices handling this workload.

Quick Decisions:

NADE supports the concept of quick decisions for those individuals who are obviously disabled. We envision such a process to work similar to the current process that identifies individuals with terminal illnesses (TERI) for SSDI and presumptive disability (PD) for SSI claimants. Such cases are "flagged" and receive expedited actions throughout the claims adjudication process.

The NADE flow chart shows Quick Decisions to be handled by DDS. NADE believes that DDSs are best equipped in terms of adjudicative expertise, medical community outreach, and systems support to fast track claims and gather evidence to make a decision timely, accurately, and cost effectively. DDSs already process at least 20% of allowance decisions in less than 25 days. In addition, DDS disability examiners are well versed in the evaluation of disability onset issues, unsuccessful work attempts and work despite a severe impairment

provisions to quickly and efficiently determine the correct onset for quick decision conditions.

Establishing a regional expert unit to handle this workload, in NADE's opinion, constitutes an additional hand-off of a claim with no value added to the process. We see no need to add another layer of bureaucracy to process quick decisions when such cases are already "triaged" and handled expeditiously by the DDS disability examiners. In order to implement a regional expert unit for quick decisions, SSA would need to change its existing infrastructure to make these decisions and provide for hiring, training and housing staff. Also, business processes would have to be developed to secure and pay for medical evidence of record.

NADE does not support assigning the responsibility for Quick Decisions to the Field Office either. Even with the additional training proposed in the joint NADE/NCSSMA proposal, we do not believe that Claims Representatives will have the knowledge and skills necessary on an ongoing basis to adjudicate these cases. We are also concerned that assigning this responsibility to the Field Offices will invite jurisdictional disputes between the DDSs and the Field Offices as to what types of cases or alleged impairments actually constitute potential for "Quick Decisions." We are concerned for the potential growth of turf guarding between these components and we believe it will also encourage higher incidences of fraud. We would take this opportunity to remind SSA that the Social Security Advisory Board and SSA's Office of Inspector General have both proposed in previous reports and congressional testimony that the experienced disability examiner is the most effective weapon SSA has at its disposal to combat fraud. In addition, we would point out that some Field Offices already struggle with the concept of recognizing presumptive disabilities and TERI cases. Adding additional conditions or expanding their responsibilities in this area will require extensive time-consuming and expensive training to an already lengthy claims representative training period. Our exper-

ience with the Disability Claims Manager pilot demonstrated that there is too much complexity in both the claims representative and disability examiner positions to "merge" them into one.

NADE would not oppose Claims Representatives recommending cases for potential quick decisions but we do suggest that more extensive in-line quality assurance and end-of-line quality control be applied to this new process to ensure that those claims that deserve to be identified as having potential for "Quick Decisions" are so identified and that those that do not, are not so identified.

The Commissioner has stated that in private insurance companies, up to 25% of cases can be allowed as quick decisions (defined as within 25 days). Given that DDSs already process 20% of allowance decisions in less than 25 days, and with the streamlined documentation requirements envisioned in the future process, there is ample reason to believe that DDSs can achieve the 25% envisioned goal, with no additional training or expense required. NADE does not believe that building another expensive infrastructure to handle this workload is either cost-effective or necessary.

NADE continues to support elimination of the five month waiting period for Title II claimants and is in the process of updating its 1999 position paper on this issue. As long as the Title II waiting period remains in effect, a quick decision process will have little or no impact on a significant percentage of Title II applicants with clearly disabling conditions. In addition, consideration needs to be given to elimination of the twenty-four month waiting period for Medicare benefits. NADE heartily endorses and supports any demonstration project that provides early health care coverage to disabled individuals and we call attention to the fact that, in January 2001, SSA, due to congressional mandate, did eliminate the Title II five month waiting period for cash benefits and the twenty-four month waiting period for Medicare coverage for disability applicants who suffer from Amyotrophic Lateral Sclerosis

NADE View, continued

(ALS). While we support this exemption for ALS patients, NADE questions the fairness of giving special treatment to one group of disability applicants and not to all, as well as the potential litigation issues involved in such a practice.

Adjudication of Initial Claims:

Under NADE's approach, DDSs would continue to handle adjudication of all initial claims, as well as continuing disability reviews (which were not addressed in the Commissioner's new approach to disability determination).

NADE supports the Commissioner's goal of fully documenting and explaining disability decisions. We are very concerned that sufficient resources must be in place to allow this to happen. The message in the past, during times of tight budget constraints, has always been to limit medical costs in disability adjudication and to limit detailed explanation of denial decisions. Fully documenting and explaining disability decisions will require the full commitment of SSA, the Congress and the American public to provide the necessary resources to administer the disability program effectively to meet this goal.

Enhanced Role for the Disability Examiner:

Of all the reengineered disability processes proposed or piloted in the past, the Single Decision Maker (SDM) process has been the most successful. Statistical results have shown that disability examiners operating under the single decision maker model in the twenty states where this concept was tested have the same or better quality than disability examiners operating under the traditional disability adjudication model.

NADE fully supports an enhanced role for the disability examiner in disability adjudication and increased autonomy in decision-making for experienced disability examiners on certain cases. Decisions regarding disability eligibility can be considered to be on a continuum from the obvious allowances on one end, through the mid-range of the continuum

where only careful analysis of the evidence by both adjudicator and physician can lead to the right decision, and finally to the other end of the continuum where claims are obvious denials. It is at both ends of the continuum where the disability adjudicator can effectively function as an independent decision maker.

SDM is a proven and value-added step of the process that allows the medical consultant time to be invested in more medically complex cases, to assist less experienced adjudicators and medical consultants in mentoring and training, providing expertise and sign-off on specialized exams and tests, and to focus their expertise in public relations activities, such as outreach to improve the quality of record received from medical providers, making personal contacts to obtain information for adjudication, and assisting in recruitment of consultative examination physicians. As SSA continues to face increasing demands to manage its workload more effectively, the SDM is one tool that has been shown to increase productivity with limited resources.

The Single Decision Maker has had the most positive impact on cost-effective, timely and accurate case processing than any other disability claims initiative in many years. Use of the SDM to make the disability determination, and retaining the availability of medical consultant expertise for consulting on cases without requiring doctor sign off on every case, promotes effective and economical use of resources. It is common knowledge that some disability claims are more complex than others requiring varying levels of expertise. It is prudent to expend our medical and other resources where they can most positively impact the quality of the disability claim.

NADE supports utilization of SDM to make the decisions on the types of cases currently being adjudicated under the prototype process SDM regulation. Studies of the SDM have demonstrated its value as an integral part of the Social Security Administration disability claim adjudication process and it should be embraced by SSA and adopted as standard procedure in all DDSs. NADE also

supports expansion of SDM to continuing disability review cases.

Medical Consultants:

Just as with examiners, it takes time for a medical consultant to become familiar with the SSA program requirements and to become proficient with the process. NADE strongly supports on-site medical expertise. Examiner/medical consultant communication is essential for efficient development and decision-making. DDS examiners now have face-to-face interaction with Medical Consultants. In addition to resulting in extremely efficient case development and decision-making, this process adds value in that it provides important medical training of less experienced examiners and ongoing mentoring of all examiners as medical practice evolves.

If, as proposed under the Commissioner's approach, DDS disability examiners are to adjudicate the more complex disability claims, then it is even more important to their professional development for them to have direct communication with Medical Consultants. NADE is a professional association whose purpose is to promote the art and science of disability evaluation. NADE recognizes the unique knowledge, skills and abilities required of disability examiners and has a certification program in place for individuals who meet the requisite training and experience requirements. NADE certified disability examiners are required to obtain 25 hours of continuing education credits every three years in order to continue to be certified. NADE sponsors annual regional and national training conferences to offer the most up-to-date information in medical treatment and advances in medicine and to further promote the professionalism of its members. In addition, NADE recognizes the critical and valuable contributions to the disability adjudication program by medical consultants and also has a certification program in place for medical consultants. NADE certified medical consultants are required to obtain 25 hours of continuing education credits every three years in order to continue to be certified.

DDS medical consultants play a vital role in disability adjudication and transferring them to a central regional component would fragment and add a layer of confusion to the process. Establishing priorities in workload handling at a regional level will be difficult and complex, and resolution of problem solving situations in such an environment will be cumbersome and time and resource-intensive.

Currently, all DDSs have a contingent of state agency medical consultants. In some states, they are state employees; in other states they are under contract. These medical consultants possess a wealth of knowledge and experience, not only in the medical field and in specialty areas, but in the SSA disability program, as well. They also possess an important knowledge of individual state health care systems. These consultants are an extremely valuable resource to the individual DDSs, and the program as a whole.

The majority of disability claims do not have one single discrete impairment but multiple conditions that can impact on functioning. Adjudication requires the evaluation and assessment of how all of these conditions, alone or in combination, impact on an individual's functioning. The use of specialists alone could result in too many handoffs, adding significantly to processing time, as well as decrease quality of decisions, if there were no method in place to pull all of the specialty conditions together into an overall global assessment of their impact on functioning.

NADE strongly opposes removal of on-site medical expertise in the DDS, but would support specialists within each DDS and/or at a regional level to be available to other DDSs and other SSA components for assistance in case evaluation and adjudication. Removing this critical resource from the DDS site will have a markedly negative impact on initial case quality. The ability of an examiner to have face-to-face, ongoing access to an in-agency doctor with whom the examiner is familiar and who is familiar with the details of practice in the area, leads to better accuracy, processing time,

productivity, costs and customer service. Additionally, state agency medical consultants have already been trained in SSA disability program specific rules and regulations. This training will not need to be duplicated in order to implement their use as a regional specialist resource. Retaining DDS – based medical consultants allows for continuance of case-processing on CDR claims which are not included in AeDib processes at this time and on-site DDS medical consultants can continue to provide medical input in the DDS's in-line quality reviews.

NADE believes that removal of on-site DDS medical consultants will lead to loss of local knowledge of individual state medical providers, which could lead to longer, less fruitful case development and decision-making and increase case processing costs when specialists without program experience feel compelled to order special studies in areas a program-experienced medical consultant would appropriately assess on evidence in the claim file.

NADE believes that examiner consultations will be less efficient with doctors with whom they do not have an adjudicative team relationship and processing time will increase with the complexity of a regional or national case assignment and case monitoring process with cases outside of the DDS span of control.

NADE believes that the addition of a regional medical expert unit will add confusion and unnecessary time to the process as regional consultants and DDS examiners will be called upon to operate within the frustrating and time-consuming element of differing time zones and hours of work.

Centralizing regional medical expert review units will require massive recruiting and training efforts – all of which is needlessly expensive and time-consuming when the resources and expertise already exist in the state DDSs. In addition, massive amounts of time will be needed to train new consultants, who cannot be expected to replicate the knowledge and experience currently possessed by the DDS medical consultants.

Other complicating features of a centralized regional medical expert special unit include: some states require local licensing (state specific) for the ordering of labs/special studies; resolution of disagreements with regional medical assessments will be complex and time-consuming; and there would be no onsite medical resource for DDS in-line or end-of-line quality review processes.

Nurse Consultants:

NADE does not support the addition of a nurse consultant to the process as proposed by the Commissioner. This adds an unnecessary step to the process between the disability examiner and the medical consultant which does not currently exist. NADE believes that the addition of this hand-off in the process adds no value and increases the potential for errors in communication. Extensive training in the adjudicative process would be required in order for the nurse to effectively communicate with medical consultants and examiners. There is a critical difference between the clinical perspective that a nurse would be expected to have and the disability assessment perspective required by the program. **The ability of the disability examiner to access face-to-face medical consultations and develop rapport and familiarity between team members should not be altered or breached.**

Vocational Consultants:

NADE recommends the use and expansion of vocational consultant expertise on-site in the DDS. According to a recent Social Security Advisory Board report, the proportion of initial allowances based strictly on medical factors has declined from around 93 percent in the early years of the program to 82 percent in 1983 and to a 2000 level of 58 percent. The percent of medical-vocational denial decisions has also risen, and is expected to continue to rise, with the increased emphasis on assessment of function and the resultant impact on exertional and non-exertional limitations in formulating residual functional capacity determinations.

NADE View, continued

Many states utilize vocational consultants who have developed the expertise and program knowledge to assist examiners in applying vocational policy. In complex cases, they may assist in completing detailed narrative assessments of the vocational factors, evaluating transferability of skills, applying vocational rules, and citing jobs available in the national economy. In other states, experienced examiners or QA Reviewers often assume this responsibility on a formal or informal basis.

Vocational consultant expertise in the DDS is critical to assure that vocational issues are correctly addressed and that individual claims are appropriately adjudicated under the medical-vocational guidelines. While the availability of vocational experts outside the DDS may provide needed expertise and consultation for DDS vocational consultants, NADE supports the designation and training of on-site DDS vocational consultants to further promote and enhance a timely and quality decision-making process at the DDS level.

Regional vocational experts available to the other components of the disability process should also be available to DDS vocational consultants to address specific, complex questions that may arise in the DDS. Ensuring that DDS staff has adequate access to vocational expertise improves the accuracy and consistency of determinations. Making the right decision at the DDS level means fewer appeals and timely adjudication with less cost.

SSA, Congress and the American public must make a commitment to adequately finance the disability workload, including the infrastructure for vocational expertise. SSA continues to rely on the Department of Labor's hopelessly outdated Dictionary of Occupational Titles, which was last updated in 1992. Adequate resources and funding must be devoted to improve the tools available to all adjudicators in evaluating complex vocational issues. NADE also continues to support decreasing the requirement for a fifteen year vocational history. The rate and pace of change of jobs in the national economy makes a fifteen year

vocational history requirement increasingly unfair to the disability applicant.

Disability Hearing Officer:

NADE fully supports an interim appeal step between the initial denial and the Administrative Law Judge (ALJ) hearing. An interim step is necessary to reduce the number of cases going to the Office of Hearings and Appeals (OHA) as much as possible. The prototype experience has shown that despite the elimination of the reconsideration step and shifting more DDS resources to doing initial claims, the number of claims appealed to the Office of Hearings and Appeals was still too high for the Administrative Law Judges to efficiently address. An interim step laying out the facts and issues of the case and requiring resolution of those issues could help improve the quality and consistency of decisions between DDS and OHA components. There are many positive features of having an interim step between DDS and OHA as proposed by the Commissioner. **NADE is not convinced, however, that customer service is improved from the current process if this remains a paper review at this interim step.**

NADE fully supports an interim step because of the structure it imposes, the potential for improving the accuracy of DDS decisions and processing time on appeals, and the correction of obvious decisional errors at the initial level before a hearing. The establishment of uniform minimum qualifications, uniform training and uniform structured decision-writing procedures and formats will enhance the consistency and quality of the disability decisions.

NADE believes that this interim step should include sufficient personal contact to satisfy the need for due process. NADE does not believe, however, that this interim step needs to be handled by an attorney. There is little, if any, data that supports why this interim step needs to be an attorney. In fact, a 2003 report commissioned by the Social Security Advisory Board to study this issue recommended that this position **NOT** be an attorney.

Decisions made at all levels of adjudication in the disability process are medical-legal ones. NADE believes that Disability Hearing Officers can handle the first step of appeal between the DDS initial decision and the ALJ hearing. Disability Hearing Officers (DHOs) are programmatically trained in disability adjudication as well as in conducting evidentiary hearings and most DHOs are not attorneys.

Using trained Disability Hearing Officers instead of attorneys will be substantially less costly, even if they are reclassified as federal employees. There is currently an infrastructure in place to support DHOs and using such a structure will prevent creation of a new costly and less claimant friendly federal bureaucracy. Since this infrastructure is already in place, national implementation of the DHO alternative can occur very quickly.

NADE believes that credibility and acceptance by the Administrative Law Judges of the first step of appeal is critical. Preliminary discussions between NADE and representatives from the Association of Administrative Law Judges indicate that they could support the concept that individuals performing this first step of appeal would not necessarily have to be an attorney. NADE believes that Disability Hearing Officers have the experience, training and capability to produce the type of product envisioned at this level to prepare a case for an ALJ hearing. In addition, NADE supports the availability of programmatically trained medical and vocational expertise at this step in the process.

The Adjudicative Officer pilots proved that non-attorneys could produce a high quality product. The DHO is a highly trained and experienced disability adjudicator with a proven track record of expertise evidenced by well documented, well reasoned, correct decisions. Current ALJ reversal rates of DHO decisions on continuing disability review appeals is approximately 33%, a much lower ALJ reversal rate than on reconsideration or prototype appeals. Disability Hearing Officers are well-trained in the disability regulations and medical and

vocational issues, all of which are critical in preparing a well documented and well reasoned case for the ALJ hearing.

NADE supports the Commissioner's approach as proposed to structure the first step of the appeal to assure a complete and consistent product is provided to the ALJs. NADE recommends that all individuals responsible for preparing this product be required to attend a training program similar to the Hearing Officer program at the McGeorge School of Law.

NADE also supports the Commissioner's approach as proposed to have the ALJ describe in detail in his/her written decision, the basis for rejecting a Recommended Disallowance or describe the evidence gathered during the hearing that responds to the description of the evidence needed to successfully support the claim contained in the Pre-Hearing Report.

NADE is concerned, however, that this first step of appeal not be seen as a quality review of DDSs. The remanding of large numbers of cases back to DDSs will create workload issues, divisiveness between the components and do little to improve public service. We are also concerned that this will invite jurisdictional and policy disputes between the DDSs and this component. Whether intended or not, cases that are sent to DDSs from SSA components tend to set precedents.

NADE supports in-line quality assurance and centralized end-of-line quality control reviews at the first step of appeal as well as at the Administrative Law Judge level.

ALJ Hearing:

NADE supports the Commissioner's approach proposing that cases to be heard by the Administrative Law Judge be fully documented and explained, and all issues be fully addressed and detailed out in the decision. In the rare case where additional information may be required, NADE supports a budget for OHA to develop and purchase medical evidence of record and consultative examinations and that OHA case processing systems be designed to accomplish this. Cases

should not have to be returned to DDS to obtain additional information.

NADE supports in-line quality assurance and centralized end-of-line quality control reviews of Administrative Law judge decisions, closing of the record after the ALJ decision and issuance of a final agency decision after the ALJ hearing (providing the decision is not overturned on end-of-line quality control review). We also support increased medical training for Administrative Law Judges as a more effective and more efficient business process and we support the availability of programmatically trained medical and vocational experts to the Administrative Law Judges.

Social Security Court:

NADE supports creation of a Social Security Court to hear appealed disability cases. As long as multiple district courts have jurisdiction of disability appeals, the consistency and uniformity of the disability program is in jeopardy. Currently, multiple disability criteria exist in the country due to different states operating under various acquiescence rulings. It is imperative to unify the program so that no matter where an individual lives they receive the same disability decision. A Social Security Court structured similar to the Bankruptcy Court could serve the purpose of unifying the disability program.

Quality Reviews:

All components must have a clear understanding of everyone's roles, responsibilities, and authorities. DDSs cannot accept policy direction, whether formal or inferred, from multiple components of SSA. There is a clear danger that introducing a new bureaucracy, with remand authority, will complicate the picture.

NADE strongly endorses the need for consistency and accuracy of decisions at all levels of the adjudicative process. NADE's view shows in-line quality assurance and centralized end-of-line quality control reviews at all steps of the process. A centralized quality review process of all components in-

involved in disability adjudication would eliminate regional differences in the application of Social Security Administration policies from state to state and component to component. This centralized review unit should be organizationally placed within the component responsible for initiation and implementation of disability policy (currently the Office of Disability Programs). Accurate interpretation of policy is the underlying factor in consistency of good decision making and siting a quality review component within the same component that issues policy ensures consistent application of policy.

NADE concurs that there is a need for adjudicative accountability at every level in the process. We find the emphasis on in-line quality assurance reviews, the creation of a feedback loop and centralized end-of-line quality control reviews of every component to be positive aspects of the Commissioner's new approach.

Summary:

NADE's view of a new approach is predicated on the assumption that the electronic folder is fully operational, with the proper infrastructure, equipment and resources to support it and that sufficient staffing and resources would be made available to all components involved in disability adjudication. NADE's view is also predicated on the need for SSA to clearly define the elements for fully documenting and explaining an initial case at the DDS level, as well as clearly define the elements that will satisfy the process unification initiatives. It is critical that SSA provide clarification of what steps must be followed and provide the funds necessary to implement them. NADE believes that only those steps that add value to the process should be implemented. NADE is fully committed to working in partnership with SSA and other components to fashion, design and effectuate needed improvements and changes in the program.

*Approved by the NADE Board,
March 10, 2004*

Career Opportunities

Washington Disability Determination Services

Is currently accepting applications for Adjudicators with knowledge and experience adjudicating all types of claims

We offer:

Competitive salaries and safe, attractive work environments

Come explore the scenic Pacific Northwest



Positions available at all locations Seattle, Olympia and Spokane

For information and online applications, please contact Department of Personnel at <http://hr.dop.wa.gov/> or call Michelle Fisher, Human Resource Consultant at (360) 664-7415, Email: michelle.L.fisher@ssa.gov

<http://hr.dop.wa.gov/statejobs/bulletins/jobcat2.htm#Adjudications>



**Hearing Officer Vacancy Announcement
State of Georgia**

The Ga. DDS is announcing a vacancy for a Disability Adjudication Hearing Officer.

Qualifications: Bachelor's degree from an accredited four-year college or university AND successful completion of at least five years of experience as a Dis. Adjudicator or equivalent examiner experience in a DDS, the last two years must have been consecutive and not ended more than three years prior to this announcement. ALSO must have successfully completed SSA's Disability Hearing Officer training.

Salary: \$38,000 annually

How to Apply: Submit two completed State of Georgia Applications to Sylvia Sellars, Disability Adjudication Services, P.O. Box 57, Stone Mountain, Ga. 30086-9902. You can download the application from the following site:

<http://www.gms.state.ga.us/agencyservices/forms.asp#employment>

Application Deadline: March 31, 2004

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Charles A. Jones

Office of Reengineering and Quality Management Director
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NADE Correspondence



SOCIAL SECURITY
Office of the General Counsel

Ms. Theresa B. Klubertanz, President
National Association of Disability Examiners (NADE)
Post Office Box 7886
Madison, Wisconsin 53707

Dear Ms. Klubertanz:

This is in response to your letter dated January 12, 2004, regarding the notice of the new eDIB Claim File system of records and Routine Use Disclosures SSA published in the *Federal Register* on December 23, 2003 (68 FR 71210). We have completed our review of your comments and find that from the Privacy Act perspective, there are no disclosure policy issues that would impact the new system of records as published. However, we have forwarded your letter to the appropriate program components for any response they may wish to provide.

Sincerely,

Randolph W. Gaines
Executive Director
Office of Public Disclosure

cc: Sue Roecker, Office of Disability Programs
Lenore Carlson, Office of Disability Determinations

SOCIAL SECURITY ADMINISTRATION

BALTIMORE MD 21235-0001



G A O

Accountability * Integrity * Reliability

United States Accounting Office
Washington, DC 20548

February 26, 2004

Terri Klubertanz
P.O. Box 7886
Madison, WI 53707

DEar Ms. Klubertanz:

Enclosed is a copy of our report, *Social Security Administration: Strategic Workforce Planning Needed to Address Human Capital Challenges Facing the Disability Determination Services*. The report is also available at no charge on GAO's Web site at <http://www.gao.gov>.

Your participation in our data collection effort provided an important source of data for this study. Thank you very much for your help.

Sincerely yours

Robert E. Robertson
Director, Education, Workforce,
And Income Security Issues

Enclosure

NADE Correspondence



Theresa B. Klubertanz
Post Office Box 7886
Madison, WI 53707
Phone 608-266-7604
Fax 608-266-8297
E-mail theresa.klubertanz@ssa.gov

March 11, 2004

The Honorable Jo Anne B. Barnhart, Commissioner
Social Security Administration
500 E Street, SW, Suite 800
Washington DC 20254

Dear Commissioner Barnhart:

Over the past few months, the National Association of Disability Examiners (NADE) has extensively reviewed your new approach to SSA disability determination that you outlined in your Congressional testimony last September and in subsequent discussions with SSA and DDS personnel and in even further discussions with public interest and advocacy groups. We have been honored that NADE was invited to have even more in-depth discussions with you and your staff regarding your new approach. During these discussions, we have listened carefully to the explanations of your new approach and we have offered our thoughts on various aspects of the approach. Now, we are ready to present our thoughts on this in much more detail and we trust you will welcome our perspective.

As you know, NADE submitted a detailed proposal two years ago regarding the need for a new disability claims process. We believed then, and continue to believe now, that our proposal did offer a more efficient and more effective way of doing business than the current status quo. While we did not envision that our proposal would be embraced by all components and all public advocacy groups, we do believe that it did serve the purpose for directing the public's attention to the need for many changes in the status quo. NADE was very much in agreement with your testimony at your confirmation hearing that you could not serve as Commissioner of the status quo and NADE has sought to introduce changes that we believe are needed. We are hopeful that you will welcome this new proposal from NADE.

We believe that NADE's new proposal offers a comprehensive analysis of the impact each piece of the puzzle will have on the disability adjudication process. While we believe that your new approach is workable and we support many aspects of your proposed new approach, we feel that certain portions would have a detrimental effect on the ability of each component in the process to deliver public service with the level of quality expected by those who seek our assistance. Once the public has lost confidence in any one part of the process, the entire process is held to be suspect. Consequently, we believe the new approach now offered by NADE presents a solution that will enhance the role of each component, increase public confidence and address the operational goal to make the right decision as early in the process as possible. We invite your consideration of this proposal from NADE and we look forward to additional opportunities to discuss the various approaches to changing the status quo to produce a more efficient and more effective disability claims process.

Sincerely,

Theresa B. Klubertanz

Theresa B. Klubertanz
President

cc: Martin Gerry, Deputy Commissioner for Disability and Income Security
Mary Chatel, Director, Disability Service Improvement

**Highlights of Mid-Year
Board Meeting**

**NADE's Midyear Meeting
With The Commissioner And The Social Security Advisory Board**

by Martha Marshall, NADE President-Elect

AS WE have for the past several years, prior to NADE's Midyear Board of Directors Meeting, the NADE President, President-elect, Legislative Director and DDS/SSA Liaison met with the Commissioner of Social Security and with the Chairman and staff of the Social Security Advisory Board. This year's meeting with the Commissioner also included several members of her Disability Service Improvement Team—Mary Chatel, Director and Program Advisors Sonia DeLaVara and Linda Dorn.

We began both meetings by sharing copies of NADE's recently developed Disability Examiner Position Paper. Commissioner Barnhart indicated that the Position Paper would be extremely useful for her when she meets with the National Governor's Association in July to discuss her new approach and to describe the complexity of the work done in the state DDSs.

In addition to the Position Paper, we discussed SSA's 2004 and 2005 budget requests, what was requested for those years and what was received for 2004. Although SSA did not receive the full amount requested in the President's 2004 budget request, full funding for A-eDib was received.

The Commissioner's new approach to improving the disability process is dependant on successful implementa-

tion of e-Dib. While NADE supports the goal of an electronic folder, we stressed the need for adequate and appropriate resources, including hardware, software and technical support.

We discussed in some detail the Commissioner's new approach and again expressed our belief that the "quick decisions" could be best done in the DDSs; that for a number of reasons State Agency medical consultants should remain in the DDS and be readily accessible to examiners; that vocational expertise should be part of the process in the DDS as well as at later steps in the process; and that the Reviewing Official does not need to be an attorney. We reiterated our belief that nurses are not needed to route cases needing medical specialist review to the right specialist. This simply creates another hand off. We noted that while NADE supports full documentation of all claims, in tight budget situations we are often asked to reduce medical expenditures. Like the electronic folder, "full documentation" requires adequate resources. NADE supports both in-line and end of the line QA review. We were assured that in-line QA review was built into all steps in the process, not just at the DDS level as seemed to be indicated on the chart.

The Commissioner and members of the Disability Service Improvement Team expressed their appreciation to NADE

for our willingness to share our concerns, to support those parts of the new approach with which we agree and to offer alternative solutions when we do not agree.

Our meeting with the Social Security Advisory Board (SSAB) included Chairman Hal Daub, who was present through the miracle of video conferencing, and, in person, Joe Humphreys, Staff Director, and George Schuette and Jack Dalton, SSAB Staff. We discussed at some length our meeting with Commissioner Barnhart and staff and our concerns about resources and those parts of the Commissioner's proposed approach to improving the disability process with which we agree and those with which we disagree.

Mr. Daub believes that with the Commissioner's approach cases will take longer at the front end but should take less time at the next levels. He sees the role of the Reviewing Official as an attorney enhancing the decision before it goes on to the Administrative Law Judge. The Advisory Board will continue to monitor the Commissioner's new approach as details are developed. Mr. Daub agrees with NADE that creation of a Social Security Court would significantly improve national uniformity as states would not be adjudicating claims under individual court decisions and acquiescence rulings. He also believes that it is time to look closely at Social Security's definition of disability and quite possibly change it. The Advisory Board released a report on this in October 2003 and plans to continue to review this issue.

Once NADE's formal Position Paper on the Commissioner's new approach has been completed copies will be shared with the Commissioner and with the Social Security Advisory Board.

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FOREST PARK MEDICAL CLINIC
100 North Euclid Avenue
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St. Louis, MO 63108
314.367.6600
Contact: Camille Greenwald

Mid-Year Board Meeting continued

NADE Attends Executive Meetings

by Debi Gardiner, SSA/DDS Liaison

NADE PRESIDENT Theresa Klubertanz, NADE President-Elect Martha Marshall, NADE Legislative Director Karen Gunter and NADE SSA/DDS Administrators Liaison Debi Gardiner attended several executive meetings February 23, 24 and 25th. Meetings were held with Office of Management and Budget, National Academy of Science, National Academy of Social Insurance and the Congressional Budget Office to discuss several issues of concern. Discussions centered on the budget, the Electronic Folder and the Commissioner's new approach to disability.

NADE is very excited about the Electronic Folder but voiced concerns about having sufficient resources including necessary hardware, software, IT support and long-term support. The Executive Officers expressed strong support for the Commissioner's emphasis on quality for all components. This included in-line and end-of-line review, fully documenting the record, a step between the initial decision and the ALJ, demonstration projects, closing the record, providing the assistance of programmatically trained medical and vocational experts to the Administrative Law Judges and the elimination of the Appeals Council.

Concerns were voiced about the screening step with the Expert Review and it was stated that NADE believes the DDSs are in the best position to handle the quick decisions and that this appears to be another hand-off. At every meeting, NADE provided the position paper on eliminating the five-month waiting period, reiterating that even with quick decisions, a Title II claimant must still serve a five-month waiting period before receiving benefits. NADE also voiced strong concern about keeping the Medical Consultants in the DDS to assist examiners and to help in mentoring and training, and further stated that we do not

believe that nurses are necessary in the process. NADE stated that we do not believe that the Reviewing Official has to be an attorney, but could perhaps be filled by someone such as a Disability Professional in the Disability Hearing Office.

NADE strongly supports a Social Security Court, in place of District Court, in order to provide consistency.

SSA Gathering Comments On New Approach To Disability

by Mimi Wirtanen, Great Lakes
Regional Director

MARY B. CHATEL, Director for Disability Service Improvement, recently met with the NADE Board at their annual Midyear meeting in Washington, DC. Commissioner Barnhart has asked Ms. Chatel to direct outreach for the New Approach to Disability. Ms. Chatel has 30 years experience with the Social Security Administration. She has held a variety of positions, most recently in Rhode Island. She is very familiar with the Disability Process, having been a manager whose office participated in several pilots, including the AO Pilot. Members of Ms. Chatel's staff also attended. They included: Sonia De La Vara from Linda

McMahon's office; Linda Dorn, former Michigan DDS Director, who is on a six-month assignment to the group; Alan Beyer, who has 20 years experience with OHA and Appeals; Brad Howard, an attorney with the Office of General Counsel.

Commissioner Barnhart is totally committed to a better process for the public. The Commissioner also wants to be an advocate for Disability Examiners with the governors. She is already on the agenda for the July, 2004 meeting of the National Governors Association. Both the Commissioner and Ms. Chatel were happy to receive the NADE "Disability Examiner Position Paper" and feel it will be very helpful in helping them with this process. They appreciate NADE's approach in looking at the whole picture of the disability process.

Currently the focus is on gathering comments. This is the time for associations, union groups and all interested parties to communicate their issues – where they agree, where they disagree and what would be better. Right now, nothing is written in stone. The goal is to have the conversation completed prior to the Ruling being written. Since September, they have met with a wide spectrum of interested parties, including: the Social Security Advisory Board, Con-



President Klubertanz, Alan Beyer, Mary Chatel, Brad Howard,
Sonia DeLaVara, and Linda Dorn.

Mid-Year Board Meeting continued

gress, the Federal Bar, NADE, NCDDD, AFGE, the General Accounting Office, AARP and advocate groups. There is also a section on the Social Security web site (www.socialsecurity.gov) where people can leave comments and also see Frequently Asked Questions regarding the New Approach. Ms. Chatel and her staff will compile the comments and provide them to Commissioner Barnhart and Martin Gerry, who will be responsible for the finished product.



President Klubertanz with Ms. Chatel

Ms. Chatel reviewed some of the top issues that have been identified thus far:

- The Regional Medical Expert Review Unit – At first people thought they would be situated in the Regional Offices. That will probably not happen. With AeDib, they can be stationed anywhere.
- Role of the nurses – Private insurance companies have teams of nurses and physicians. This role could also be performed by PAs. They are still looking at other ideas.
- Overall cost – We may not have the best medical expertise because we cannot pay enough. There may not be specialists in rural areas. The cost for providing this medical expertise is not yet known.
- The QA process – there is broad based support for in-line review. This is one element of the New Approach that is very important to the Commissioner and

is almost carved in stone. These reviews would run from the beginning of the process to the end, not just at the DDS or OHA level. They would not be designed as an “I Gotcha”, but would help SSA to see necessary changes in systems, policies, staffing, etc. They study why some people don’t file an appeal.

- Reviewing Official – Many wonder why this has to be an attorney. They have had a variety of comments on this. Some advocates are concerned that a pre-hearing report would have a chilling effect on the claimant going forward with the hearing. Others feel it’s good for them to know the issues. The Administrative Law Judges (ALJs) are concerned that by having to address each issue, they lose the de novo hearing. There still needs to be clarification on the RO’s role in obtaining medical evidence and the RO’s role in remands.

- Quick Decision – Everyone seems to think this is a good idea. No one agrees who should do these. The Commissioner is looking at about 10% Quick Decisions. The reason for the current thought in placing this responsibility outside the DDS is that it would allow more time for the DDS to do a more thorough evaluation of the medical and vocational aspects of the claims and to write a more detailed rationale. Some think the Field Offices (FO) could do these Quick Decisions. Others feel the FOs have difficulty properly identifying a TERA case.

Ms. Chatel anticipates that SSA will begin writing the regulations this summer and that process will go into the fall. The NPRM (Notice of Proposed Rule Making) will probably be ready in January 2005, after which there would be a 90-day comment period. This is a huge regulation involving the entire disability process. The earliest anything would be implemented would be October 2005. They do have an understanding that people will also need time to work with AeDib prior to having these changes implemented. There is a lot that needs to be done, improved and people will need

time to adjust. They foresee rollout done Region by Region. Boston would be the first Region up. Next up would be the Atlanta Region because it is large and diverse.

The Commissioner and Ms. Chatel want to hear our comments and ideas, but time is running out. Be sure your voice is heard. Contact NADE or go to the Social Security web site and provide your comments. They are listening.

Mid Year Congressional Visits Report

by Karen Gunter, Legislative Director

PRESIDENT TERRI Klubertanz, President-elect Marty Marshall, DDS Administrators/SSA Liaison Debi Gardiner, and I met with a number of Congressional staff members prior to the NADE mid-year Board meeting in Washington, DC. Our meetings included both the majority and minority staff directors of the House Committee on Ways and Means, Subcommittee on Social Security. We also visited with the Professional Staff Member of the Subcommittee on Human Resources; the Chief Counsel of the House Judiciary Committee, Subcommittee on Commercial and Administrative Law; and the Chief Social Security Analyst, the Social Security General Assistant and several other staff members of the Senate Finance Committee.

In each of these meetings we discussed NADE’s concerns about the budget and emphasized the need for adequate and appropriate resources. In our discussion of the electronic folder we indicated that, while we look forward to using this tool to aid us in doing our jobs and providing faster service to our customers we must have the resources, including technical support and equipment, if this is to be a success. We also stressed that, while this tool may help decrease mailing times and provide other efficiencies, it cannot replace the highly skilled and trained disability examiner.

Mid-Year Board Meeting continued

In each meeting we shared a copy of NADE's Disability Examiner Position Paper and discussed NADE's reaction to the Commissioners' new approach to disability claims processing. Using the Commissioner's flow chart as a discussion guide we discussed in some detail those areas with which we agree and those with which we do not. We indicated that we believe the quick decisions should be done in the DDSs; the Medical Consultants should remain in the DDS; and that while we support an appeal step between the DDS and the ALJ, we do not feel the Reviewing Officer need be an attorney. The DDS has experience in providing this function through our Disability Hearings Units. We also discussed our continued concern with legislative efforts to increase the PER review of SSI claims allowed by the DDS.

Although not part of the Commissioner's new approach, we reiterated NADE's longstanding support for establishment of a Social Security court, similar to federal Bankruptcy Court. This new court could provide consistency to the program that is currently lacking due to the divergent decisions of various District Courts.

On Wednesday morning we attended the House Appropriations Committee hearing on the President's FY 2005 budget request. Testifying at this hearing were Commissioner Barnhart, accompanied by the Deputy Commissioner for Finance, Assessment and Management, and James Huse, Jr., Inspector General of the Social Security Administration. Among the questions and issues raised by the Congressional members in attendance were concerns about the 5-month waiting period, the use/misuse of Social Security numbers, and tracking overpayments or payments to deceased individuals. On Thursday CCP Chair Shari Bratt and I attended the House Ways and Means Committee, Subcommittee on Social Security hearing on Social Security's Service Delivery Budget Plan. Because Alan Greenspan had just released his statement on the looming crisis in Social Security, all of the questions

and discussions were related to that.

Although NADE does not have an official "Washington presence" we are recognized by members of Congress and their staffs for our expertise in the issues and challenges facing the Social Security and SSI disability programs, and for our willingness to work toward solutions.



*President Klubertanz,
Sue Roecker, and Bill Gray.*

SSA Moves Toward Electronic Disability Process

*by Kay Welch, Mid-Atlantic
Regional Director*

BILL GRAY, SSA's deputy commissioner for systems addressed the Board on February 26, 2004 and reported that the Agency met its goal of building an infrastructure to support an electronic disability process by January 2004. The Mississippi DDS is currently piloting the electronic folder successfully in one production unit. Gradual roll-out to the entire agency begins in March.

Internet Applications

More than 50,000 internet applications have been taken to date. In a satisfaction survey conducted, 90% of internet users rated their experience as "good." One of the major initial problems with the on-line applications was the lack of edits. Claimants were able to enter little or no information in key fields. The Office of Systems worked with field offices to improve the on-line process and rectify this issue. SSA will now turn its attention to increasing use of the internet forms

through increased marketing.

EDCS

Over 2.5 million claims have been taken through EDCS, accounting for 80% of all claims. EDCS 6.1.2 was released in January and contained enhancements that came out of pilot states. Enhancements included alerts, flags, messages, improved screen designs, improved source files and the ability for all users to create barcodes. Also, it is now possible to burn an entire electronic folder to disks for attorneys or others to use.

DMA

The document management architecture (DMA) in place now allows users to highlight, bookmark and add sticky notes to medical evidence. For instance, material can also be separated to send with CE requests. The pilot unit in Mississippi currently has more than 20,000 documents electronically stored. DMA contracts will be federal contracts rather than state in the interest of time and money.

eMER

Mississippi VA hospitals are now using the secure website to transfer records. The Office of Systems is piloting a program with SMART. Under the pilot, OS will assist SMART in building the infrastructure they need to send evidence electronically.

What's next?

The next EDCS release is scheduled for June and will focus largely on OHA. Anticipated rollout for all OHA is anticipated by the end of the fiscal year.

One of the key challenges ahead for DDSs is preparing staff for the new process. Pilot states will make best practices available to all in the hope of shortening the learning curve. The Office of Systems remains open to all suggestions and recommendations for changes and improvements. They will continue to work on improving the online application process and insuring that the electronic medical evidence platform is strong enough to support anticipated volumes of eMER.

Mid-Year Board Meeting continued

AeDib will roll out to the entire Atlanta region before moving on to additional regions.

The Lack of Strategic Workforce Planning GAO Update

by Barbara Bordelon and Carol Peterson

by Christa Royer, Southwest Regional Director

BARBARA BORDELON of the Government Accounting Office (GAO) opened up the meeting by recognizing NADE and its leadership for providing very valuable information, which contributed greatly to their recent report.

A survey of DDS Directors as well as conversations with SSA officials and DDS staff have led to the conclusion that there are three key challenges that the DDSs face in the retention and development of expertise of their examiners.

- **High Turnover:** Over a 3-year period, the average turnover rate for DDS examiners has been 13%, with some as high as 46%. The federal cousins who administer the disability decisions for the Veterans Administration have about a 6% turnover rate.
- **Difficulty with recruitment and training:** This has contributed significantly to an increase in processing time, higher caseloads, backlogged cases as well as the high rate of turnover.
- **Gaps in the levels of key skills:** Over 50% of the DDS Directors feel that 24% of their examiners need additional training in areas that are critical to the analysis and decisions of the disability claims. Areas such as symptom assessment, the weighing of medical opinions, credibility and RFC assessment. However, the high workload levels tend to inhibit training.

The study has shown that there is insufficient long-term workforce plan-

ning in most DDSs. Rarely are there any projections more than 2 years out. The DDSs lack key strategies to plan several years out nor do many have long-term agency staffing goals. They are faced with many barriers, which include the lengthy state hiring processes, the intricacies of the federal-state working relationship as well as the lack of support from SSA.

SSA has not addressed the problems with long-term staff planning in the DDS environment. Within their own strategic plan, they do not have any strategies mapped out to address long-term needs within the DDS work force.



Barbara Bordelon and Carol Peterson discuss DDS challenges with Marty Marshall as Terri Klubertanz looks on.

The DDS Directors would like to see a survey done which would address the concerns of the disability examiner. Assistance with long-term workforce planning, from SSA, would be beneficial as well. SSA could assist the DDS Directors with many aspects of the negotiations with the states in regards to budget issues and personnel policy including salary issues.

The GAO report recognizes the complexity and the high level of analytical skills that are required in the job of the disability examiner. It is also noted that without a nationwide plan used as a framework, SSA's ability to provide the highest quality of service will be weakened and eroded without the well-trained disability examiner. It also calls into question the success of the

Commissioner's new plan without this highly skilled workforce. Will SSA allow the plans for the new disability process, as outlined by the Commissioner, to be undermined by the lack of strategic planning for the DDS workforce?

If you would like to know more about the GAO report and recommendations, you can go to the website to get more information. www.gao.gov/cgi-bin/getrpt?GAO-04-121

National Council of Social Security Management Associations' Comments on the Commissioner's New Approach

by Chuck Schimmels, NADE Treasurer

RON BUFFALOE, President of NCSSMA, spoke with the NADE Board at NADE's recent Mid-Year Board Meeting. He reminded the board that we have a lot of the same issues, some which were outlined in the joint paper we wrote to the Commissioner, titled "The Front End."

Mr. Buffalo began his presentation by giving us some background on their organization. They represent the management of the SSA Field Offices and Tele-Service Centers in all 10 regions. Their membership comprises 80 per cent of all who are eligible because they offer the only "unfiltered voice" of management.

They applaud the Commissioner for putting something out and hope that the changes will shorten times for processing disability claims. They have provided their comments to the new process with the following:

- The Commissioner's proposal has promise as the basis for an improved SSA disability determination process.
- The role of the SSA field office in the initial stage of the disability intake needs to be expanded and modified by assigning additional disability responsibilities

Mid-Year Board Meeting continued

to claims representatives. This could include, when feasible, the initiation of medical development, scheduling of consultative examinations and recommending and/or making medical determinations in quick decision cases.

- Expert review units should be located in the DDSs. They would be organized in the same manner by the Commissioner's proposal and would perform the same functions. Additional resources should be allocated to the DDSs involved to compensate for this responsibility.
- NCSSMA endorses and recommends implementation of the inline quality review process as well as the centralized quality control function envisioned by the Commissioner's proposal.
- The DDS reconsideration step should be eliminated.
- The requirement of the reviewing official be an attorney should be eliminated.
- The record should be closed after the ALJ decision and the Appeals Council should be eliminated.
- Finally, all affected components should be staffed appropriately. Both DDSs and FOs will need more staff if this new process is to work.

You can read NCSSMA's comments on the Commissioner's New Approach in its entirety at

NCSSMA's website: www.ncssma.org

SSA Budget for DSSs Presents Bleak Outlook

by Micaela Jones, Pacific Regional Director

TOM FINIGAN, Divisional Director of the Office of Field and Disability Operations, addressed NADE Board members at the February 2004 Mid Year Board meeting in Washington, DC. He

provided updated information regarding DDS budget and performance.

He introduced his budget update by stating, "This is the worst year ever." Finigan reported that the initially proposed budget provided a good working budget for SSA; however, Congress was less generous than hoped. He thanked the DDSs for good service, and stated that the DDSs are responding appropriately to this budget reality.

Mr. Finigan reported that there is a decrease in service expectations due to the decreased budget. Therefore, the plan is to decrease CDR (Continuing Disability Review) expectations by 10 per cent. The money saved by decreasing CDR demands will go to processing initial claims. It is anticipated that initial claim receipts will be up three percent over last year, estimating about 120,000 initial receipts. This increase in receipts challenges productivity, and the Commissioner continues "looking for" additional funds for the DDSs within SSA's existing budget to cover the increased cost for initial claim receipts.



Tom Finigan shares budget concerns with NADE Board.

In spite of SSA's continued policy regarding no meetings (i.e., no Administrators Forum, no systems meetings, etc.), NADE training conferences are encouraged and supported. Continuing on budget issues, Mr. Finigan stated that SSA released the DDS work plans to the Regional offices this week. Medical cost-per-case control is planned to provide the DDSs the additional work years to assist in meeting work demands.

Mr. Finigan closed by reporting that SSA productivity is strong. Processing time is drifting downward, when looking at the overall case processing time from initial application to the notice going to the claimant. The time the case takes in the DDS continues to be consistent and stable. Quality is generally stable at this time as well.

NCDDD Compares Notes on Ae-DIB and Other Issues

by Shari Bratt, CCP Chair

NCDDD representatives Sheila Everett, Andy Marioni, Kay Hoffpauir, Tommy Warren and Vicki Johnson discussed eDIB, the SSA Commissioner's New Approach to SSA Disability Determinations and the SSA budget with NADE during its mid-year Board meeting. NCDDD is on record as focusing on the design of e-DIB and its impact at the DDS level. They are concerned about off-site scanning, the impact of an electronic folder on staff, productivity and workload. In early May 2003, the NCDDD systems committee chair talked to Commissioner Barnhart about Websphere-MQ and began discussions about electronic medical evidence (EME). EME was not part of the original design of e-DIB. In May, 2003, the Commissioner and DDS Directors met in Birmingham, AL, and at that meeting it was proposed that one region at a time roll out e-DIB. The Atlanta Region was chosen to roll out eDIB first as it has 25% of the nation's workload. Several states piloted portions of eDIB prior to roll out in January 2004 in Mississippi.

Sheila Everett, NCDDD President and Director of the Mississippi DDS, discussed her state's experience with e-DIB rollout. She stressed the need for adequate up-front planning, including software and hardware changes, reformatting of MER and claimant letters, training on eForms and electronic evidence, and the need to change entire DDS business process from paper to

Mid-Year Board Meeting continued

electronic. Mississippi rolled out one unit of disability examiners in January 2004 and by March 1, 2004, there will be 24 disability examiners "on-line". One variable affecting success of the paperless folder is the comfort level of the disability examiner with changes in computer processes. Those who have come from a computer background have transitioned very easily, or at least more easily, to the new system. They are closely monitoring the Disability Examiner and Medical Consultant productivity as they convert to a paperless business process. Sheila stressed that eDIB is only 20% systems but 80% DDS business process. Mississippi continues to focus its outreach efforts at getting more evidence in electronically. Tommy Warren added that it is imperative that networking between the states continue so that each state is not "reinventing the wheel" and can avoid the "same pot-holes".

Ms. Everett stated that NCDDD is working on their position on the Commissioner's new approach. After it was first announced, NCDDD shared thirteen questions with the Commissioner. NCDDD does not believe that nurses are needed in the DDSs and feels strongly that MCs should remain at the DDS. Also, they have emphasized that DDSs are in the best position to handle any quick decision cases.

Feedback from the DDS Directors was mixed regarding the reviewing official step with some making the case for a reviewing official, but not as an attorney and others not wanting to eliminate reconsideration at all. There was agreement that a step should be between the initial case and the Administrative Law Judge. Kay Hoffpaair stated that the AO pilot demonstrated that the disability examiner can handle review of the record and an enhanced alternative would be to have a Hearing Officer act as the "Reviewing Official." Vicki Johnson complimented NADE on its Disability Examiner Position paper (see page 36) and stated that we (NADE and NCDDD)

need to closely examine the Commissioner's Approach for what might work and be ready to propose solutions to the problems in the program.

Andy Marioni shared information about a recent meeting with SSA on the Booz Allen Hamilton quality study. He stated that a broad definition of "quality performance" was being looked at, not just production and accuracy.

Tommy Warren talked about recent discussions on the SSA Definition of Disability and pilots for early intervention of medical treatment and health care.

Sheila Everett stated that the budget situation is critical with twenty states being told their ability to do new hires will be frozen. There is only about 70% replacement of attrition and she urged NADE to make the case for needed resources in order for aeDIB to be successful.

Highlights of the NADE Board of Directors Mid-Year Meeting

by Juanita G. Boston, NADE Secretary

The NADE Board of Directors Mid-Year Meeting was held on February 26-28, 2004. President Theresa Klubertanz presided over the meeting which was held at the Loews L'Enfant Hotel in Washington, DC.

Reports from the Executive Officers, Regional Directors, Council of Chapter Presidents, Appointed Directors and Standing Committees were given to the Board. Guest speakers included Mary Chatel from the Office of Commissioner Barnhart, Sue Roecker, Associate Commissioner for Disability Programs, Bill Gray, Deputy Commissioner for Systems, SSA, Tom Finegan, Barbora Bordelon, GAO, Ron Buffaloe, President, National Council of Social Security Manage-

ment Association Inc. and a presentation by Sheila Everett, President of NCDDD and other members of the NCDDD Executive Board.

NADE National Training Conference updates were given for the following:

2004 National Training Conference
Kansas City, MO September 18-24th

2005 National Training Conference
Boise, ID September 10-16th

Highlights from NADE Board of Directors Mid-Year Meeting:

- The *Chapter Services Handbook/Leadership Guide* has been revised and distributed by Shari Bratt, CCP Chair.
- There has been a decline in membership in NADE over the past year. The Board discussed the financial implications to our organization, the threat to our viability as a professional organization and the importance of being creative in attracting and keeping NADE members.
- New Disability Claims Process. NADE has been very visible and provided invaluable information to Commissioner Barnhart since 2002. NADE is recognized as the "experts" on the disability process. The Board continued discussions on our role in providing input and offering alternatives in areas in which NADE disagrees. NADE will develop a position paper on the New Disability Process.
- Among other issues discussed by the Board were the Leadership Grant Proposal, a proposal by the Organ Donation Committee, the theme for National Disability Professionals Week, Systems Issues, the Strategic Plan and the Disability Examiners Position Paper.

This was my first time attending a NADE Mid-Year Board Meeting. Although I have been a member of NADE

Mid-Year Board Meeting continued

for many years, attending a board meeting gave me a new perspective and appreciation for the leadership of NADE. This was a **working meeting**. The Board spent an entire two and a half days in meaningful, thought provoking work to insure the future of our organization. All of the guest speakers were highly complimentary of NADE's hard work, the importance of having input from NADE, who are the disability professionals and they were sincerely interested in what NADE has to offer.

The Board professionally addressed those issues relevant to NADE. Discussions and decisions to be presented to the membership were made with the membership in mind and toward the end of keeping NADE in the forefront of all decisions that affect our daily work and our profession.



INVITATION

On behalf of the Social Security Advisory Board, I would like to invite you to attend a forum discussion of the Social Security Definition of Disability on April 14, 2004.

In October of last year, the Board issued a report examining the half-century-old definition used for the Social Security programs. We pointed out that those programs represent a fundamental element in the economic security of millions of disabled Americans. However, we noted that questions are increasingly raised as to whether the design of the programs, rooted in a definition of disability as inability to work, is consistent with our society's attitudes toward disability as enunciated, for example, in the Americans with Disabilities Act. We issued the report to focus more attention on the issue and indicated our intent to follow the report up with one or more forums to begin a serious discussion of it.

*In pursuit of that objective, we are sponsoring a forum on **April 14, 2004 from 9:00 a.m. to 4:30 p.m., in the Dirksen Senate Office Building, SDG-50, 1st and C Streets, NW, Washington D.C.***

The day-long forum will include presentations and discussions on the extent to which the current program is or is not consistent with appropriate national disability policy and what changes might be made to the program structure and definition. We are fortunate to have some of the leading experts on disability participating in this program. Comptroller General David Walker will make the keynote address. There will be ample time for full audience participation. Discussion will continue through a working lunch, and a box lunch will be provided. The tentative agenda is attached.

If you wish to attend, please RSVP to the Social Security Advisory Board at info@ssab.gov or by telephone at (202) 475-7700 or FAX (202) 475-7715 by Friday, March 26, 2004.

Hal Daub, Chairman

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Update on Litigation

by Georgina B. Huskey, Litigation Monitoring Chair

THE LITIGATION Committee has compiled the following findings on recent and/or pending Litigation regarding the Social Security Disability program:

Thomas vs. Barnhart

Supreme Court Decision No. 02-763. Argued 10/14/03; Decided 11/12/03.

The Supreme Court of the United States ruled that a claimant could be found not disabled if he is able to return to his previous job, even if that previous job no longer exists in the national economy.

At step four of sequential evaluation, a claimant can be found not disabled if his/her RFC allows him to return to his previous job without inquiring as to the current existences of that previous job in the national economy. The High Court ruled on behalf of Social Security.

This decision overturned a decision of the third circuit of appeals.

Henderson vs. Barnhart

United States Court of Appeals Seventh Circuit case No. 03-1828. Argued 9/30/03; Decided 11/12/03

The Federal Appeals Court agreed that the fact that a person holds down a job does not prove that he is not disabled, because he may have a careless or indulgent employer or be working beyond his capacity out of desperation.

Cohen vs. Barnhart

United States Court of Appeals for the First Circuit April 2, 2003

This affirms an order of the Commissioner of Social Security that a claimant is not entitled to disability benefits if the impairment was not severe enough prior to the DLI.

Barnhart vs. Sigmon Coal Co., et al.

United States Supreme Court No. 00-1307. Argued 11/7/2001; Decided 2/19/02

The High court decision agrees that when the language of the law/statute is clear, it must be given its literal meaning. When the law/statute is silent or ambiguous, then the intent of the legislature should be explored.

Blakes vs. Barnhart

Acquiescence ruling 331 F.3d 565 (7th circuit. 2003).

This ruling involved interpretation of the Listing 12.05. In that mental retardation had been evaluated based on function evidence as explained in the preamble before and after the 9/20/2002 version of the listings, and not strictly by an IQ score and another significant medical impairment.

Washington State Department of Social and Health Services et al. vs Guardian-ship Estate of Keffeler et al.

USA Supreme Court decision No. 01-1420 Argued 12/3/02 Decided 2/25/03

THE LAW: THE SOCIAL SECURITY ACT DOES NOT ALLOW SOCIAL SECURITY BENEFITS AS WELL AS SSI BENEFITS TO BE SUBJECT TO EXECUTION, LEVY, ATTACHMENT, GARNISHMENT, OR OTHER LEGAL PROCESSES. (EXAMPLE: a SSA beneficiary owes me money. He refuses to pay. I go to court. The court decides that a beneficiary should pay me. His only resource is the Social Security money. The court cannot garnish or attach the SSA check because the Social Security Act protects SSA/SSI benefits from execution, levy, attachment, garnishment or other legal process.

SSA REGULATION: beneficiaries can have payees if they are minors or because of their impairments, they are not able to handle funds. Generally,

priorities are given to parents, guardians and relatives. As a last resort, the State may be appointed as payees. The payee may then expend the funds only for the use and benefit of the beneficiary, in a way the payee determines to be in the beneficiary's best interests. This may include costs incurred in obtaining food, shelter, clothing, medical care and personal comforts.

THE FACTS: the State of Washington through the Department of Health Services provides foster care to certain SSA/SSI benefits then reimburses itself or pays the foster care costs of this money.

THE SUIT: alleges that the action of the State of Washington violates the SSA provision protecting the SSA/SSI benefits from execution, levy, garnishment, or other legal process.

THE ISSUE: is the action that the State of Washington as Representative Payee in collecting the SSA/SSI benefits then reimbursing itself or paying the foster care cost amount to execution, levy, attachment, and garnishment, an act which is in violation of the Social Security Act protection against such actions?

DECISION: the action by the State of Washington does not amount to employing an execution, levy, attachment garnishment, or other legal process.

INTERPRETATION: the act is not an execution, levy, attachment and garnishment. It is also not under other legal process. The phrase other legal process should be understood to be process much like the processes of execution, levy, attachment or garnishment. (Note in terms execution, levy, attachment or garnishment usually means legally/forcible taking over something, such as money, property basically with a court order.)

continued on next page

STATUTORY CONSTRUCTION (WAYS OF INTERPRETING THE LAW): when general words follow specific words, the general words are constructed to embrace only subjects similar to those enumerated by the specific words. In this case the words other legal process should be in the same category as the specific words execution, levy, garnishment and attachment. The mere act of the State of Washington in collection the SSA/SSI benefits and paying for foster care costs of recipients does not amount to execution, levy, garnishment and attachment.

I also found a decision made in the case of a Federal Employee filing for disability benefits due to headaches. The AMERICAN WITH DISABILITY ACT/ EEOC found that a migraine condition might not be recognized as a disability.

I found this interesting in relation to Social Security Disability. Migraines or headaches might affect functioning. Although in and of itself, it might not be sufficient to consider disability, the migraines or headaches may affect other body systems in the same manner as pain and it should be factored in the assessment of functioning capacities.

I find the work of this committee fascinating as it relates to the Social Security Law and how it impacts our decisions.

I am not aware of any other litigation currently pending. However, with all the things going on with SSA, I expect a lot of activity to surface in the future.

In addition to my committee, I would also like to thank Gabe Barajas and Dale Foot for all their coaching and mentoring.

Once again, I appreciate the opportunity to serve as Litigation Monitoring committee Chair.

It's Resolution Time!

by *Chrisa Schimmels, Resolutions Chair*

HAVE YOU EVER wanted to make a change, to be a part of something bigger? Now is your chance! Do you want to make your voice known? It's time to submit resolutions. Right now there are many changes proposed by the Commissioner and these changes affect all of us. Is there something you feel should be changed? Do you have recommendations for ways to improve the program? Then make a resolution and submit it to the committee!

A resolution is a formal statement of opinion that is adopted by a group or an assembly. You may want to discuss any possible resolutions in your regional conferences or just in your chapters. Below is the format that your resolution should be written in and a list of the committee members. The length of a resolution can vary depending on the number of reasons you have to support your recommendation. All resolutions must be submitted to the committee. We will review any resolutions that we receive and then present them to the NADE board. The resolutions are then voted on by the delegates at the NADE conference. If you have any questions, please let me know.

The format for a resolution is:

WHEREAS:
(statement of the facts)

WHEREAS:
(more relevant facts)

WHEREAS:
(continue as needed)

THEREFORE, BE IT RESOLVED:
(the opinion/position you want supported by NADE)

Resolutions Committee Members:

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“NADE: EXPLORING UNCHARTED TERRITORY! JOIN THE EXPLORATION!”

National Disability Professionals Week June 21-25, 2004

by Paula Sawyer, NDPW Chair

TWO HUNDRED years ago, Captains Meriweather Lewis and William Clark, with a group of 48 explorers, “The Corps of Discovery,” began a two year-long expedition at the request of President Thomas Jefferson to forge a Northwest Passage to connect the eastern United States with the West Coast. Setting out from St. Louis, Missouri, this expedition would prove to be a two-year journey cataloguing the wildlife, topography, etc. of the unexplored region. Along the way, they served as representatives of their country in making friends with the native population of the region, exchanging ideas, gifts, counsel and sustenance with their new friends.

This year our nation observes the Bicentennial of the “LEWIS & CLARK

EXPEDITION!” In honor of these past explorers, NADE has established this year’s National Disability Professionals Week theme to be: “NADE: Exploring Uncharted Territory! Join the Exploration!” After all, those of us who work in the disability program are also explorers. NADE has designated June 21-25 as National Disability Professionals Week and NADE Chapters are encouraged to organize events to celebrate the occasion.

See the nade.org website for more information on guidelines for information regarding NDPW award criteria. To enter NDPW competition, prepare a narrative in a WORD document explaining how your chapter included the activities from the list of suggested guidelines

listed on the NADE website. Send the narrative to the NDPW committee chair to:

Paula.Christofoletti@ssa.gov
NO LATER THAN July 9th,
Friday at 3:30 PM.

Two (2) chapters from EACH CATEGORY of chapters (i.e. SMALL, MEDIUM, LARGE) will be designated as this year’s overall winners for the 2004 NDPW competition. Award winners will be announced at the General Membership Assembly during September when the NADE National Conference takes place in Kansas City, Missouri.

(Coincidentally, this year, our NADE National Conference will take place in the heart of “Lewis and Clark Territory!”)



Right In Your Own Backyard

Organ Donor Awareness Week – April 18-25, 2004

by Celeste Lilly, Organ Donation/Transplant Chair

CURRENT STATISTICS state that, in the United States eighty thousand people are awaiting organ transplants. More than 2,100 new patients are added to the waiting list each month. Statistics also state that 17 people die each day, waiting for that organ that never becomes available. You look at those statistics and are mildly impressed but really, what does that have to do with you? Actually, it has a lot to do with you.

Look around your environment. You don’t know all of your co-workers’ stories. Could one of those 80,000 be a peer or the family of a peer affected by the “waiting.”

Of the nine people who are regional representatives on the Organ Donor/Transplant Committee, three of them have been the recipients of organs. One is

possibly in need of another transplant and one member’s spouse died while waiting for a transplant. And, some of you know that my parents were both donors at the time of their deaths.

The need for a transplant is not in somebody else’s backyard, it’s in your backyard. Members of your national chapter are among those 80,000, and they are the families of those people waiting.

So, it isn’t just somebody’s cousin’s uncle who needs an organ. It isn’t just the little child, who they are featuring in a story on *Dateline* that needs the organ; it’s the people that you work with and talk to on a daily basis. It’s that co-worker or family member who needs a transplant. It is in your own backyard because it’s one of your NADE brothers and sisters.

So, how can you help?

- BECOME A DONOR.
- TALK TO YOUR FAMILY AND TELL THEM YOUR WISHES ABOUT BEING A DONOR
- EDUCATE YOURSELF AS MUCH AS POSSIBLE ABOUT THE LAWS IN YOUR STATE ON ORGAN DONATION AND TRANSPLANTATION
- TALK TO YOUR FAMILY.
- PARTICIPATE IN NATIONAL ORGAN DONOR AWARENESS WEEK APRIL 18-25, 2004

How can you become a donor???

TELL YOUR FAMILY!

And, recognize Organ Donor Awareness Week – April 18-25, 2004.

My Father's Gift

by Julie Mavis, Kalamazoo, MI DDS

Eighty-three thousand eight hundred forty seven is a large number. I'd like to win that much money in the lottery. But it also represents the number of the people who are on the nation's organ transplant waiting list (as of March 1, 2004). What's even more alarming is that more than 2,000 of them are children under the age of 18. But numbers mean nothing compared to the stories behind them. I used to be one of those children, but that all changed on August 11, 1987.

My two kidneys had been damaged at birth, but they were able to function well enough to keep me going until the summer I was fifteen. I felt fine and my symptoms were not detected until my blood pressure increased to 120/180. After blood tests and ultrasounds it was discovered my kidney function was declining and I would need a transplant. At the time I thought, "Great, I'll have the surgery done next month and I can go back to school". What I didn't realize is that kidneys are not stored in facilities like blood and that my family would have to provide me with a new kidney. I was fortunate to have my mother, my father and my sister all be potential donors. My mother was to be my first donor, but she was eventually ruled out due to her own health difficulties. My father was then further evaluated and was able to pass all the preliminary testing. As the testing went on, my kidney's failed completely and I started peritoneal dialysis (CAPD). I was given the option of hemodialysis which meant being hooked up to a machine several days a week or CAPD which required four treatments a day and the treatments only lasted thirty minutes. I had to have a catheter inserted into my abdomen where fluid could enter my peritoneal cavity and remove the impurities of my blood through diffusion. After four to six hours, I drained the fluid out and replaced it with new fluid to start the whole process over. It worked well for me

and I was able to keep up in school and perform my extracurricular activities. The biggest side effect was fatigue at the end of the day, but compared to how I felt before dialysis, I was thankful to have a process available that kept me from being bedridden.

A year after being diagnosed my father and I entered the hospital and after a three and a half hour procedure I was given a new lease on life. I remember feeling so energetic after surgery, I had color in my face and a spring in my step. I didn't realize how worn out and lethargic I had become. About a month after I was released from the hospital I was able to rejoin my classmates in school. It was the beginning of a new part of my life.

So, almost seventeen years later I am proud to say I still have my father's kidney functioning for me. It's not as chipper as it was back in the earlier years, but it keeps my health stable and allows me to come to work everyday. I still take medications to prevent my body rejecting the kidney and I take other medications to stabilize the side effects from the long term use of those anti-rejection drugs. The medications, side effects and monthly blood tests are now a routine part of my life and, at times, I forget the struggle my family and I went through so long ago.

My father has had no ill effects from his surgery. He was able to return to his full time job, was on no medication, no special diet, and had no long term lifting restrictions as a result of the surgery. I can never thank him enough for what he did for me, but I realize that watching his daughter have a "normal" life after the age of sixteen was probably enough thanks for him.

Recently I started volunteering once a week at a dialysis clinic where I talk to

the patients about life after transplant, the steps to get a transplant, or just listen to their stories. They vary in their age, their education, their ethnic group and their reasons for being on dialysis. Some are unable to receive transplants while others have been on the waiting list for several years. Those that are waiting are anxious to receive "the call" letting them know there is a kidney available for them. In the meantime, dialysis is a part of their weekly routine. They sit in their chair covered up with tubes coming out of their chest or arm next to a machine that cleans their blood for them hours at a time. I have learned by talking to them that most are thankful to have this process to keep them alive while others grow tired of it and hope a transplant comes soon. Those that don't tolerate it stop coming to treatment and as one patient described to me, "My friend who sat next to me hated needles and hated the machine so he just stopped coming and within five days he was dead".

On average, 17 patients die every day while waiting on organ (not just kidneys)—one person every 85 minutes. Living donor transplants include single kidney, liver (segments), lung (lobes) and pancreas (portions). The following organs and tissues can be donated at the time of death: heart, intestine, kidneys, liver, lung, pancreas, pancreas islet cell, heart valves, bone, skin, corneas, veins, cartilage and tendons. You can change someone's life by completing an organ donor card and letting your family know your decision. Public awareness and education of organ donation can help decrease that number of 83,847 so more people can enjoy an active post transplant life as I have done for the past seventeen years.

For more information on organ donation and to see the statistics I used for this article go to www.unos.org.

NADE Business, continued

NADE Voting Rules for 2004

by Debi Chowdhury, Elections & Credentials Chair

THE RULES FOR THE 2004 elections are as follows:

I. Elections

A. Current Membership is:

1. Used to determine the number of votes each Chapter or State is entitled to cast (i.e. one vote for each current member); and
2. Determined by the most current membership printout issued prior to the National Conference.

B. Disagreements with the membership printout:

1. Shall be resolved between the Membership Committee Chair and the appropriate Regional Director;
2. Shall be reported to the Chair of the Elections and Credentials Committee before voting begins.
3. Which are not raised and resolved prior to voting, shall be resolved by application of voting rule I.A.2.

C. Proxies must be presented to the Chair of the Elections and Credentials Committee before voting begins and:

1. For the Chapter or State without any delegates, written proxy will allow another delegate from the same region to cast the votes.
2. For the Chapter or State without any delegates and without written proxy, the appropriate Regional Director may cast the votes.
3. Any Regional Directors unable to attend the Delegate Assembly must furnish written proxy to a region member allowing that person to cast the votes of any absent Chapter or State of the region.

D. Contested Elections Shall:

1. Be resolved by majority vote in secret ballot.
 - a. Each state or Chapter shall vote separately.
 - b. A member of the Elections and Credentials Committee shall issue the proper number of ballots to the Regional Directors.
 - c. Each State or Chapter may split their authorized votes in any whole number combination.
 - d. Members of the Elections and Credentials Committee or NADE members appointed by the Elections and Credentials chair shall count the ballots and report the results to the Delegate Assembly.
2. Be repeated as a runoff election between the two candidates with the highest votes in the event that one candidate does not receive a majority of the votes.
3. Allow an observer at the request of any candidate provided:
 - a. The name of the observer is submitted in writing to the Chair of the Elections and Credentials Committee.
 - b. The request is made no later than one hour prior to the convening of the Delegate Assembly for the election.
 - c. The observer may not interfere in any way with the counting of the ballots.

II. CREDENTIALS

A. Eligibility to serve as a NADE officer, the candidate must be a full and current member in good standing.

B. The Chair of the Elections and Credentials Committee shall verify membership with the Chair of the Membership Committee prior to the election.



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NADE Needs You!

by LaVonne Mercure, Nominations Chair

THE NATIONAL conference is fast approaching so it is time to consider running for NADE national office. We are now taking nominations for the positions of NADE President Elect, Secretary and Treasurer. The election will take place during the General Membership Assembly at the 2004 NADE training conference to be held September 18 to September 24, 2004 in Kansas City, Missouri.

The only qualifications to be a candidate are to be a NADE member and be willing to commit your time, effort and ideas to the organization.

Interested persons are encouraged to submit a recent photograph and a brief resume announcing your candidacy to a Nominations Committee Member no later than May 1, 2004. The deadline is so that we can publish your candidacy in upcoming NADE Advocates. Of course we will be accepting nominations after that date as well as from the floor during the General Membership Assembly at the NADE conference.

If you have any questions feel free to contact me or any of the Nominations Committee Members listed below. We hope to hear from many of you soon!

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Aurora CO 80014-1641
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Please contact your Regional Director Brenda Crosby or any member of the Nominations Committee



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2003 NADE Awards Criteria

by Leola Meyer, Awards Chair

THE TIME IS HERE AGAIN for NADE members to acknowledge the accomplishments of other NADE members through the NADE Awards. All nominations will be submitted to members of the NADE Awards committee (one from each region), and the results will be announced at the Awards luncheon at the annual NADE conference in Kansas City, Missouri in September.

NOMINATING PROCEDURES

- 1) Each chapter is responsible for selecting and nominating their own members on the approved forms (available through your chapter president).
- 2) Nominations must be submitted by **July 1, 2004** to the National Awards Chair.
- 3) The nomination form should be typed and should explain in detail how the nominee exemplified the specific criteria of each award. A one-page typed attachment is permissible if needed.
- 4) Please do not refer to the member or chapter by name in the nomination.
- 5) Each chapter is limited to one nomination per award.

All nominations, as well as ballots, will be submitted to the Awards committee members (one from each region) by the Awards Chair. The results will be announced at the Awards luncheon at the NADE conference in Kansas City, Missouri.

Please send all nominations by **July 1, 2004** to:

Leola Meyer
1904 Wisteria Drive
Jackson, Ms. 39204
601.853.5487
Fax 877.745.5458
Email: Leola.Meyer@ssa.gov

If you have questions, please call Leola Meyer at 601.853.5487.

NADE AWARDS CRITERIA

The **PRESIDENT'S AWARD** is to be given annually and presented by the NADE President in recognition of an outstanding Chapter or Subchapter.

Criteria for Eligibility: (a) Any organized NADE Chapter or Subchapter which has demonstrated outstanding achievement by innovation of programs for improving medical and other professional community relationships. Such activities as panel presentations, speeches, publication of bulletins, newsletters, circulars or other efforts to improve the quality of medical reporting or reporting of vocational assessments or the use of other professional information which can be utilized for the factual and effective documentation of disability determinations; (b) Any chapter activities which have enhanced working relationships among its professional communities.

The **CHARLES O. BLALOCK AWARD** is a service award to be presented annually and on a continuing basis in the name of the founder of NADE. It is made in recognition of an individual who has made extended efforts and major contributions toward the organizational advancement of NADE.

Criteria for Eligibility: (a) The recipient may be any professional member of the National Association of Disability Examiners who is employed either full or part-time; (b) The recipient shall have provided outstanding leadership in the development and substantial expansion of his/her State Chapter, Regional, and/or the National organization; (c) The recipient shall have shown consistent efforts over a period of at least three years toward the organizational advancement of NADE; (d) The recipient may be a committee chairperson, a National Board Member, a Chapter President, or any Member who has promoted the advancement of NADE to an outstanding degree.

The **NADE AWARD** is to honor and recognize the disability professional of the year who has made outstanding con-

tributions not only to the service of the claimant in accordance with his/her expertise but has contributed substantially of his/her time and talent to promote harmonious and more effective working relationships among his/her professional community. The award shall be presented annually at the National Conference.

Criteria for Eligibility: (a) Anyone who is professionally identified as a disability professional, employed full or part-time; (b) Any NADE member engaged as a professional in any capacity, i.e. Medical Consultant, Adjudicator, Vocational Evaluation Consultant, Supervisor, etc.; (c) Anyone who has consistently shown outstanding achievement by the use of initiative and humanitarian efforts and ability to effectively assist in the Social Security disability process.

The **JOHN GORDON AWARD** is presented in the name of John R. Gordon to a supervisor in the disability program and is designed to honor and recognize superior performance in a supervisory capacity.

Criteria for Eligibility: (a) Any supervisor who is professionally identified as a NADE member; (b) Any supervisor who by his/her initiative and resourcefulness promotes cohesiveness in his/her work group; (c) Any supervisor who provides further incentive for personal growth and professionalism among the individuals he/she supervises; (d) Any supervisor who acts in his/her executive capacity in the promotion and maintenance of morale; (e) Any supervisor who exceeds the requirements of his/her role in facilitating the workloads of his/her Agency.

The **LEWIS BUCKINGHAM AWARD** is a professional award to honor and recognize a leader of the National Association of Disability Examiners either at the Regional or National level.

Criteria for Eligibility: (a) This person must consistently have shown outstanding achievement by the use of

initiative and humanitarian efforts to further advance the professionalism and goals of the National Association of Disability Examiners; (b) The recipient must have contributed at least (10) years of continuous service to the organization; (c) The recipient should have served on the national Board of Directors.

The **DIRECTOR'S AWARD** is to honor and recognize an outstanding member of the support staff who demonstrated work performance efficiency and characteristics which contribute to the efficient operation of the unit and the morale of coworkers.

Criteria for Eligibility: (a) Any clerical or paraprofessional employee who is employed either full or part-time and is a member of NADE; (b) The recipient must have shown outstanding leadership and work performance among his/her peer group.

The **EARL B. THOMAS AWARD** is to be presented annually in the name of a charter member of NADE who is actively supportive of NADE as an asso-

ciation of disability professionals.

Criteria for Eligibility: (a) The recipient must be a member and active supporter of NADE; (b) The recipient must be the administrator of a State or Federal agency or be the top administrator of a Regional or Satellite DDS and have been so for three years; (c) The recipient must have contributed significantly to the program in ways consistent with the policies of NADE, beyond the normal administrative duties of his/her position.

The **FRANK BARCLAY AWARD** is presented annually in recognition of an individual who has demonstrated exceptional ability to motivate and challenge or to develop or promote programs which motivate and challenge personnel in a disability program and/or develop programs designed to motivate/challenge such personnel in personal and professional growth through human resource development.

Criteria for Eligibility: (a) The recipient must be a member of NADE; (b)

The recipient must be assigned to job duties on a full or part-time basis. Examples of potential nominees include, but are not limited to, training officers, civil rights office employees, human resource management personnel, etc.; (c) The recipient must have notable accomplishments in the area of human resource development, consistent with policies and objectives of our professional organization.

The **ROOKIE OF THE YEAR AWARD** is to be given annually to honor and recognize a disability professional who has made a significant contribution on a local, regional, and/or national level to the National Association of Disability Examiners.

Criteria for Eligibility: (a) The recipient must have been a member of NADE for less than two years, at the time of nomination (June 1), regardless of the number of years of service in a DDS; (b) The recipient must have made a significant contribution to their local, regional, and/or national level of NADE.

DE Position Paper, from page 36

knowledge of legal proceedings (these vary from jurisdiction to jurisdiction anyway) as it does on the ability to apply the appropriate legal concept in a given situation. The Social Security disability examiner is neither a physician, an attorney or a vocational rehabilitation counselor. Nevertheless, he or she must extract and employ major concepts that are fundamental to each of these professions. The U.S. General Accounting Office has reported that, "Our prior work has found that the examiner's job – which involves working with medical consultants to determine impairment severity, ability to function and disability benefit eligibility – requires considerable expertise and knowledge of complex regulations and policies. And according to the Social

Security Advisory Board, changes in agency rules and in the type of disability claims received by the DDSs have made disability decision-making more subjective and difficult." (*Strategic Workforce Planning Needed to Address Human Capital Challenges Facing the Disability Determination Services*, GAO-04-121 Social Security Administration, page 10).

The Social Security Advisory Board offers further clarification of the complexity of the job of the Disability Examiner: "In the early years of the program, over 90 percent of the cases were decided on the basis that the claimant's medical condition was specifically included in the listings or was of equal medical severity...but the degree of subjectivity

clearly is more substantial where the decision moves from entirely medical standards to an assessment of the individual's vocational capacity." (*The Social Security Definition of Disability*, Social Security Advisory Board, October 2003, page 4). "The proportion of initial allowances based strictly on medical factors has declined from around 93 percent in the early years of the program to 82 percent in 1983 and to a 2000 level of 58 percent." (*The Social Security Definition of Disability*, Social Security Advisory Board, October 2003, page 7). **In essence, the disability examiner must appropriately and interchangeably, during the course of adjudication, apply the "logic" of a doctor, a lawyer and a rehabilitation counselor.**

DE Position Paper, continued from page 29

The disability examiner performs a comprehensive review of the disability claims folder; determines appropriate jurisdiction; and develops the case through contact with the applicant, medical sources, schools, employers, governmental agencies, etc., deciding the most effective way to procure such information. The disability examiner analyzes and evaluates data in medical, educational, vocational and legal reports, physician's statements, laboratory test results, psychological evaluations, school records and governmental applications and forms and determines adequacy and sufficiency of information available for adjudication. Social Security disability examiners are required by law to follow a complex sequential evaluation process, performing at each step, an analysis of the evidence and a determination of eligibility or continuing eligibility for benefits before proceeding to the next step. Adjudication of claims for Social Security and/or SSI disability benefits requires that disability examiners be conversant (reading, writing, and speaking) in the principles of medicine, law and vocational rehabilitation.

A disability examiner is not a physician but he/she must be able, on the basis of signs, symptoms and laboratory findings, to make judgments about the presence, onset, clinical severity, and prognosis of any physical or mental impairment alleged by the applicant. This includes the ability to recognize a symptom complex that has been neither alleged by the applicant or diagnosed by a treating source and then to determine the need for and to identify and order the appropriate physical or mental examination required and/or any necessary laboratory studies, x-rays or other tests needed to independently evaluate the alleged or un-alleged condition. Disability case adjudication also requires the ability of the disability examiner, when appropriate, to exchange ideas, information, and opinions with a program physician, psychologist, speech and lan-

guage pathologist or vocational consultant so as to arrive jointly at conclusions regarding impairment severity and functional restrictions and limitations as a result of the impairment(s). Disability examiners are experts in the accumulation of medical information bearing on disability decision-making processes – knowing what kind of evidence to secure; when this evidence is sufficient and of requisite quality; how to secure this evidence while avoiding the dangers of exposing disability claimants to unnecessary or dangerous testing, and while respecting their human dignity; and how to accomplish disability decision making in a fiscally responsible manner. Although other disability programs may accept statements from treating or examining physicians as proof of disability, in the Social Security and SSI disability programs, the statement of a physician has no probative value. The disability examiner must review, analyze and weigh all opinion evidence and determine appropriate weight to give to each piece of evidence, applying complex rules of evidence.

The disability examiner is not an attorney but he/she must be able to apply legal concepts of rules of evidence, weighing of evidence, evidentiary sufficiency, administrative finality, Collateral Estoppel, due process, Res Judicata, and disclosure of evidence under the federal Privacy and Freedom of Information Acts. He/ she must also be aware of relevant Circuit Court decisions which impact on case development and adjudication in that circuit, or in that DDS, and apply those legal concepts and provisions to each individual case adjudicated. **The disability examiner must be able to translate the medical concept of clinical severity into the legal concept of Social Security disability program severity and the resultant functional restrictions into vocational and/or age-appropriate assessments.** This includes the ability to explain extemporaneously to an applicant, treating physician, attorney, advo-

cate or Congressional staff how a physician's opinion was weighed in the disability evaluation decision and, if appropriate, why that opinion about the patient's "disability" is being rejected. It also includes the ability to write an analysis, in a quasi-legal decision rationale, the weighing of opinion evidence and the decision arrived at that is sound enough to explain to an audience of claimants, attorneys, judges, and justices the basis for that decision.

The disability examiner is not a rehabilitation counselor. Nevertheless, disability examiners must be able to determine the vocational potential of applicants. This includes the ability to evaluate the impact of physical and/or mental impairments on an applicant's ability to perform work related functions to determine whether (based on such factors as age, education and previous work history) an individual can return to his or her former occupation, or, if not, whether the individual retains the functional ability to engage in any other occupation that exists in the national economy.

A disability examiner is not a school psychologist, counselor or speech & language pathologist. Yet when adjudicating SSI childhood claims he/she must assess not only the severity of the child's impairment(s) but the impact of those impairments, both singly and in combination, on the child's level of functioning compared to normal children his/her age in multiple domains: acquiring and using information, attending and completing tasks, interacting and relating with others, moving about and manipulating objects, caring for him/herself, as well as the cumulative effects of the physical or mental impairment(s) and their associated treatments or therapies on the child's ability to function in an age-appropriate manner.

A disability examiner must be proficient with a wide range of technological tools. He/she must be familiar with, and

able to use effectively, a number of computer applications and software packages including, but not limited to, Word, Excel and Outlook; Web based applications such as Policy Net and Web page navigation; computer generated reference materials and case processing systems such as Levy, Versa, MIDAS, as well as the federal Social Security Administration query system. Many of these programs are in a continuing state of change. As a result, the disability examiner must continuously learn and relearn the programs in order to use these tools effectively and efficiently.

The Social Security Administration's disability programs are unique. As a result, disability examiners require unique competencies. A disability examiner must have knowledge of the total disability program as well as proficiency in adult and child physical and mental impairment evaluation, knowledge of vocational and job bank information and the legal issues which impact on case development and adjudication. A disability examiner must be familiar with technical eligibility requirements such as earnings records, insured status and income and resources. A disability examiner must have complete and extensive knowledge of the Social Security Act and

amendments and all provisions, opinions, precedents, decisions and disability letters and guidelines issued. He/she must have the ability to communicate verbally and in writing; write analyses of medical, opinion and other evidence; write non-technical reports describing these issues to lay persons; and be proficient with a wide range of technological tools. A disability examiner analyzes complex medical, vocational, functional and programmatic data and determines appropriate course of action. The disability examiner discusses medical requirements with staff physicians and vocational issues with vocational consultants as needed. The disability examiner evaluates the resultant functional restrictions on the ability to work and/or perform normal daily activities. In addition to all this, the disability examiner must ensure a timely, quality decision regarding initial or continuing eligibility for disability benefits is made.

The U.S. General Accounting Office declared in one of their reports to Congress that: "The critical task of making disability decisions is complex, requiring strong analytical skills and considerable expertise, and it will become even more demanding with the implementation of the Commissioner's new

long-term improvement strategy and the projected growth in workload." (*Strategic Workforce Planning Needed to Address Human Capital Challenges Facing the Disability Determination Services*, GAO-04-121 Social Security Administration, page 41). NADE concurs with the opinion expressed by the U.S. General Accounting Office. We believe that the Social Security Administration's goal of achieving an electronic disability claims process represents an important, positive direction toward more efficient delivery of disability payments. However, while technology can be expected to reduce hand-offs, eliminate mail time and provide other efficiencies, technology is merely a tool. It cannot replace the highly skilled and trained disability examiner who evaluates the claim and determines an individual's eligibility for disability benefits in accordance with Social Security federal rules and regulations.

* Disability examiner is a generic title and reflects the responsibilities and duties of disability adjudication under the Social Security Administration's disability programs but does not necessarily reflect the actual titles of specific positions in individual states.

*Approved by the NADE Board
February 14, 2004.*



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2003 Conference Coverage

Professional/Medical Relations - A Timely Topic

by Malcolm Stoughtenborough, Oklahoma DDS

THE PRO/MRO Breakout session, held during the 2003 NADE Training Conference in Albany, New York, was a welcome addition to the Conference Agenda. The hour-long session, moderated by Donna Hilton (MO), Ruth Trent (KY) and Edie Peters-Ligouri (NJ) provided an opportunity for DDS Professional/Medical Relations Officers, and other interested parties from across the nation, to share common concerns and best practices.

The discussion included agenda items ranging from topics on HIPPA legislation and the SSA-827 form, National Professional Relations Conferences, efforts to increase MER retrieval, AeDIB and Electronic MER.

When addressing specific problems related to HIPPA and facilities accepting the SSA-827 form, it was suggested that the best results have been achieved when a one-on-one working relationship has been established with the administrators of the facilities. It is through these relationships that SSA Commissioner Jo Ann Barnhart's letter and the AHIMA correspondence can be presented which should eliminate some of the problems being encountered by DDS staff in the field.

Several states have entered into agreement with the Smart Corporation/QuickView program to increase MER retrieval and have reported substantial savings in time and costs associated with the project. It is anticipated that with the AeDIB implementation and the electronic transfer of all records, including consultative exam reports, that our efforts will be enhanced and improved in MER retrieval. SourceCorp is another resource for the outsourcing of our business processes.

Fraud Investigations was another topic of discussion. Edie Peters-Ligouri related her experience and recommends training in Investigative Reporting as

staff can be called into the courtroom setting in these cases and need to be prepared to address the legal aspects of providing testimony. This training may also be accessed through the Human Resource/Training Division in many of our state agencies.

We learned that discussions are underway at SSA to allow the use of nurse practitioners, licensed social workers and other professionals and treatment providers as acceptable medical sources. Although nothing has been approved by SSA, to date, there is a real possibility that these sources will be seen as acceptable in the near future.

In-house dictation services are being provided in many states. Dictation services are encouraged as a service to our Consultative Exam providers.

There has been a request that the "Best Practices" collection be shared with the PRO/MRO staff on a nationwide basis by the Baltimore Office of SSA. Pierre Mooney, SSA Baltimore, has agreed to look into this request.

One major topic of discussion involved the continuation of the National PR Conferences. The current plan is to continue the conferences that will be held every two years, instead of annually, according to Anne Graham, SSA Baltimore. The importance of the conferences was stressed by several PRO/MRO members in attendance, including Rebecca Calvert, New Mexico DDS.

Hand-Out Information included HIPPA Legislation and the SSA 827 documents with Internet websites and the hardcopy of a PowerPoint presentation on Consultative Examinations.

Overall, the PRO/MRO Breakout session was timely and informative and a great opportunity for those in attendance to focus on issues and practices specific to our assignments within the DDS/SSA structure.

**Letters to the Editor
can be sent to:
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1117 Sunshine Drive
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**Contributions to the NADE
Photo Competition should
be submitted to
Donna Hilton,
Publications Director.**

**Entries will be added to the
NADE website.**

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Conference Updates



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www.nade.org

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Mid-Atlantic And Northeast Regions To Meet In Philadelphia June 9-11

by Stan Catherman, Conference Coordinator

“RINGING IN QUALITY” is the theme for the Mid-Atlantic/Northeast 2004 Bi-Regional Training Conference scheduled June 9-11 in Philadelphia, PA. The conference will be held at the Holiday Inn Historic District Philadelphia. Located in the heart of Olde City Philadelphia, the Holiday Inn is within walking distance of many of the city's attractions including The Liberty Bell, Independence Hall, Penn's Landing and the Betsy Ross House.

The conference agenda includes presentations by Middle Atlantic Regional Commissioner Laurie Watkins and NADE President Terri Klubertanz. Maryland DDS Chief Medical Consultant George Albright III MD and Maryland

DDS Medical Consultant William Hakkarinen MD will present medical and Process Unification subjects. Other topics on the schedule include a timely presentation on AeDib and its upcoming implementation.

The conference won't be all business. Conference participants can take part in a night out at Dave and Buster's on Wednesday night June 9th. On Thursday night June 10th they can enjoy Philadelphia's famous rhythm and blues sound at Warmdaddies, a local R&B club.

Registration for the conference is \$100 prior to May 18th. Late registration is \$110. Room rate is \$115 per night plus state and local taxes and fees. Rates are



based on single or double occupancy. Parking is \$8 per day for all participants. For more information on the hotel, refer to the Holiday Inn web site: <http://www.sixcontinentshotels.com/h/d/holiday/hd/phlim>.

For more information on the conference, contact: MARADE President Georgia Myers at 410-965-3632.

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Disability Examiner Position Paper

Throughout the almost 50 year history of the Social Security Administration's Disability Insurance Program, the disability claims adjudication process has been a Federal-State venture, with the State Agency (Disability Determination Services) disability examiner * making the initial medical-legal-vocational determination, following complex and frequently changing Federal rules and regulations. The Social Security Administration's disability programs are unique among disability programs. It follows, then, that those individuals who evaluate claims for Social Security (SSDI) and Supplemental Security Income (SSI) disability benefits must possess unique knowledge, skills, and abilities.

The Social Security and SSI definitions of disability differ markedly from any other public or private industry definitions of disability. While other disability programs focus exclusively or primarily on the degree of impairment, the Social Security and SSI adult disability programs are work and function oriented. The SSI child disability program is function oriented. The Social Security Advisory Board offers a specific explanation of this difference in one of its recent reports: "The concept of disability has both medical and functional components ... a given medical condition may or may not be 'disabling' depending on the spe-

cific functional capacities and how they interact with the educational and vocational profile of the affected individual" (*The Social Security Definition of Disability*, Social Security Advisory Board, October 2003, page 17). What this means is that an impairment is disabling only if it prevents an adult individual from working or a child from functioning in normal age-appropriate activities. As a result, those who adjudicate Social Security disability claims are required, as a matter of routine, to deal with the interplay of abstract medical, legal, functional and vocational concepts. It takes years before an individual becomes adept at this complex task.

The task is monumental. The SSDI and SSI programs are the two largest federal programs providing cash assistance to people with disabilities (and their dependents and survivors). The SSDI program, established in 1956 by the Social Security Act, provides monthly cash benefits to workers with disabilities. In 2003, SSA paid about \$60.7 billion in DI benefits to 5.8 million workers with disabilities (age 18 to 64), \$316 million to 151,000 spouses of disabled workers and \$4.7 billion to 1.5 million dependent children of disabled workers.

SSI is a means-tested income assistance program created in 1972 that provides a financial safety net for individu-

als who are aged or blind or have other disabilities and who have low income and limited resources. SSI has no prior work requirement. In 2002, SSA paid about \$22.6 billion in SSI federal benefits to about 3.9 million people with disabilities (age 18 to 64) and an additional \$6 billion to about 959,000 children with disabilities.

In 2003, the DDSs made 2.5 million initial disability determinations, over 484,000 reconsideration determinations and approximately one million continuing disability review determinations.

The ability of the disability examiner to adjudicate these cases accurately and in a timely manner carries enormous consequences for the Social Security Administration and the citizens who call upon the Agency for assistance. Therefore, it is extremely critical that the individual performing the job of Disability Examiner be highly trained and able to perform their job duties in a highly professional environment.

Every job has a logic - a way of thinking that is unique to that particular job. For example, the purpose of a legal education is not to learn how to be a lawyer or a judge, but to learn how to reason like one. The ability to understand and to be understood in a legal setting does not depend as much on the

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