



April 2018

SOCIAL SECURITY DISABILITY INSURANCE

Information on Potential Implications of Expanding Private Disability Insurance

GAO Highlights

Highlights of [GAO-18-248](#), a report to congressional requesters

Why GAO Did This Study

SSDI, which is administered by SSA, provides financial and other assistance to qualifying individuals who are unable to work due to their disabilities. SSDI is primarily funded by employee and employer payroll taxes that are placed in the Disability Insurance Trust Fund, which is currently projected to not be able to pay full benefits starting in 2028. While there are a number of ways to address the fiscal condition of the Disability Insurance Trust Fund, some researchers have proposed expanding employer-provided PDI. GAO was asked to review whether expanding PDI could result in potential savings to the Disability Insurance Trust Fund.

This report examines (1) what is known about how coverage and key features of SSDI and PDI compare, and (2) the potential implications of three distinct proposals to expand employer-sponsored PDI on the Disability Insurance Trust Fund and various stakeholders.

GAO analyzed data on SSDI and PDI coverage from SSA and BLS for 2016 and 2017; reviewed relevant federal laws, regulations, and guidance; reviewed three PDI policies that three large insurers we selected described as typical for their companies; reviewed three distinct proposals to expand PDI identified through a literature review; and interviewed SSA and Department of Labor officials, authors, researchers, and representatives of insurance, employer, employee, and disability groups for a range of perspectives.

View [GAO-18-248](#). For more information, contact Elizabeth H. Curda at (202) 512-7215 or curdae@gao.gov.

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What GAO Found

GAO's analysis found that coverage and key features of Social Security Disability Insurance (SSDI) and long-term employer-sponsored private disability insurance (PDI) differ in a number of ways. Key differences include the number of workers covered; characteristics of covered workers; and eligibility, benefits, and return to work assistance. For example:

- According to GAO's analysis of Bureau of Labor Statistics and Social Security Administration (SSA) data, SSDI covers an estimated 96 percent of workers, while 33 percent of workers have PDI coverage through their employers. Also, PDI coverage is more prevalent among workers with higher wages (e.g., management positions) and in certain business sectors (e.g., finance).
- GAO's review of SSDI and PDI policies found that some PDI policies may pay benefits for medical conditions that SSDI would not. However, these PDI policies may time limit payments for mental health and musculoskeletal disorders, while SSDI does not. In addition, while both SSDI and PDI policies include features designed to help beneficiaries return to work, PDI policies may provide such supports more quickly than SSDI.

GAO's review of the literature identified three distinct proposals for expanding PDI that the proposals' authors believe would address SSDI's fiscal challenges. Specifically, all three proposals suggest that cost savings for the Disability Insurance Trust Fund could be expected by expanding PDI. According to the proposals, this would happen because expanding PDI would provide workers earlier access to cash and employment supports, which would reduce the number of SSDI claims or the length of time SSDI benefits are paid to claimants. However, GAO's review of the three proposals noted that none of them provide enough information to assess how SSDI enrollment and costs might be affected with an expansion of PDI. Therefore, it is unclear whether cost savings to the Disability Insurance Trust Fund would actually be realized. For example, the proposals do not provide information on the type and timing of return-to-work services that would be provided under expanded PDI, nor do they take into account the differences in the populations served by SSDI and PDI policies. Moreover, stakeholders that GAO interviewed about these proposals raised a number of issues about other implications of PDI expansion that the proposals do not explicitly or fully address. For example:

- Insurers told GAO that it was unclear how expanding PDI would affect PDI premiums and the impact this would have on enrollment.
- Employers told GAO they were concerned about potential additional requirements or administrative burdens that would be placed on them if PDI were expanded.
- Employee and disability advocacy groups told GAO they were concerned about whether PDI expansion would provide standard services or employee protections currently available under SSDI, especially with respect to PDI expansion proposals that would replace SSDI for 2 years.

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Abbreviations

ACLI	American Council of Life Insurers
ADA	Americans with Disabilities Act
AHIP	America's Health Insurance Plans
BLS	Bureau of Labor Statistics
DOL	Department of Labor
EBEI	evidence-based early intervention
EBRI	Employee Benefit Research Institute
ERISA	Employee Retirement Income Security Act of 1974
FECA	Federal Employees' Compensation Act
OASI	Old-Age and Survivors Insurance
PDI	private disability insurance
SOA	Society of Actuaries
SSA	Social Security Administration
SSDI	Social Security Disability Insurance
SSI	Supplemental Security Income
TTW	Ticket to Work

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April 10, 2018

The Honorable Orrin Hatch
Chairman
Committee on Finance
United States Senate

The Honorable Mike Lee
United States Senate

The Disability Insurance Trust Fund, primarily funded by employers and workers through payroll taxes and administered by the Social Security Administration (SSA), is used to provide cash benefits to people no longer able to work as a result of their disabilities and to their dependents. In calendar year 2016, SSA paid \$142.7 billion in Social Security Disability Insurance (SSDI) benefits to more than 10.6 million beneficiaries. Over time, demographic and other factors have reduced the Disability Insurance Trust Fund's reserves and the fund's projected depletion in 2016 was delayed when Congress passed a law that temporarily reallocated a share of payroll tax revenues from the trust fund for the Old-Age and Survivors Insurance (OASI) to the Disability Insurance Trust Fund. As of July 2017, the Social Security Board of Trustees projects that the Disability Insurance Trust Fund will be depleted in 2028, at which time incoming payroll tax revenues may not be sufficient to support paying full benefits.

In prior work, we identified various types of proposals made by researchers and others to address the fiscal condition of the Disability Insurance Trust Fund and related challenges, including proposals to slow the flow of people applying for SSDI; target finite resources more efficiently and effectively; and better align SSDI eligibility criteria with changes in the labor market, advances in medicine and technology, and modern concepts of disability.¹ We also previously reported that some researchers have suggested that one way to help address the fiscal condition of the Disability Insurance Trust Fund is to expand employer-sponsored private disability insurance (PDI). We reported that to the extent PDI expansion options encourage workers to forgo applying for

¹ GAO, *Social Security's Future: Answers to key questions*, [GAO-16-75SP](#) (Washington, D.C.: October 2015).

SSDI or limit the amount of time workers receive SSDI, they also have the potential to reduce the number of SSDI beneficiaries and program costs. You requested that we review the potential savings to the Disability Insurance Trust Fund and other implications associated with proposals to expand PDI coverage.

This report describes: (1) what is known about how coverage and key features of SSDI and PDI compare, and (2) the potential implications of three distinct proposals to expand employer-sponsored PDI on the Disability Insurance Trust Fund and various stakeholders.

To compare access to and features of SSDI and PDI, we reviewed relevant federal laws, regulations, and guidance; analyzed SSDI data and Bureau of Labor Statistics data on disability insurance coverage; and reviewed insurance industry surveys on PDI coverage. Our work mainly focused on employer-sponsored, long-term PDI—which we refer to as PDI in this report—because it most closely mirrors the SSDI program.² We requested and reviewed PDI policies from three large insurance companies, which company representatives told us were typical policies for their companies, and we interviewed SSA and Department of Labor (DOL) officials, as well as representatives of an association and a non-profit organization that conduct insurance industry surveys, and insurance associations and insurance companies.

To understand the potential implications of expanding PDI, we conducted a literature search to identify any proposals to expand PDI and that evaluated the potential effect of expansion on the number of SSDI beneficiaries and the amount of SSDI expenditures. We identified three proposals that evaluated long-term, employer-provided PDI. We interviewed the authors of the proposals and assessed the proposals for the soundness of their methodologies, the reliability of any data used, and limitations. We also spoke with SSA and DOL officials, as well as other researchers in the disability field to get their views on the identified proposals. To understand the potential implications of the three proposals to expand PDI for stakeholders, we spoke with representatives of groups that might be affected by such proposals, including insurance

² Employers may also offer short-term disability insurance; however, this typically covers a period before SSDI benefits would begin. Also, individuals can purchase individual disability insurance outside of their employment, but we do not address this in this report because the focus of this report is on proposals to expand employer-sponsored disability insurance.

associations and insurance companies, employer associations and employers, unions and employee/disability advocacy groups, a states' insurance association and organization, and DOL and SSA officials.³

This report does not examine the extent to which the provisions in pension plan disability benefits or other disability protections may promote work and help lower SSDI take-up rates or costs. Rather, we focus on the relationship between SSDI and long-term employer-sponsored PDI, which were the focus of the proposals we examined and because PDI most closely mirrors the SSDI program.

We conducted this work from November 2016 to April 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Social Security Disability Insurance (SSDI)

In recent decades, economic and demographic factors have contributed to an increase in the number of SSDI beneficiaries and increased program costs, which has reduced the size of the Disability Insurance Trust Fund reserves from a peak of \$215.8 billion in 2008 to \$46.3 billion in 2016. Over the past 26 years, the total number of SSDI beneficiaries more than doubled, from 4.2 million in calendar year 1990 to nearly 11 million in calendar year 2016. By contrast, during that same time, the number of workers covered by SSDI increased by less than a third—from 133 million to 171 million. In calendar year 2016, around 8.8 million workers with disabilities and 1.8 million dependents (spouses and children) received SSDI payments, totaling \$142.7 billion, of which \$133.6 billion was paid to the workers and \$9.1 billion to their dependents.

³ We spoke with representatives of two insurance associations, three employer associations, three employee advocacy/disability groups, two unions, a states' insurance association, and a states' insurance organization. We also spoke with representatives of eight employers and five insurance companies who participated in discussion groups (two employer groups and two insurance company groups) that we organized at the Disability Management Employer Coalition Annual Conference on August 2, 2017.

As we have reported previously, the growth in the number of SSDI beneficiaries to date can be mostly attributed to demographic factors such as the aging of the working population, the increase in the percentage of women in the workforce who are insured for SSDI benefits, and the growth in disability incidence rates for women to a level similar to men.⁴ Since 2010, these demographic factors have begun to stabilize, resulting in much smaller projected increases in the number of SSDI beneficiaries in the future. However, few beneficiaries exit the program once they have qualified for benefits, and beneficiaries generally receive benefits until they reach retirement age or die. According to SSA's 2016 Annual Statistical Report, of the 8.8 million individuals receiving SSDI benefits in calendar year 2016, about 9 percent (820,372) exited the program that year. Of those exiting SSDI, more than half (470,320 or 57.3 percent) exited because they reached the full retirement age and began receiving Social Security retirement benefits instead, fewer than a third (251,492 or 30.7 percent) exited because they died, and a relatively small portion (47,887 or 5.8 percent) exited the program due to earnings exceeding the allowable limit. Of the rest of those who exited the program (50,673 or 6.2 percent), most did so because their medical condition improved⁵

Private Disability Insurance (PDI)

In most cases, long-term employer-sponsored private disability insurance (PDI) is paid for by the employer and provided as part of a package of benefits for employees, although sometimes employees are required to pay some of or the entire PDI premium. According to one industry survey (the most recent available), in 2013, 19 PDI companies covering about 75 percent of the PDI market policies provided PDI benefits to around 653,000 individuals, with annual payments totaling around \$9.8 billion.⁶

⁴ The proportion of the insured population receiving SSDI benefits has increased even when adjusting for demographic factors such as age and sex. Researchers have suggested various non-demographic factors that may have contributed to this increase, but consensus is lacking. For example, changes in program eligibility rules and employment opportunities may have increased the pool of workers likely to apply for SSDI. See [GAO-16-75SP](#).

⁵ SSA. "Annual Statistical Report of the Social Security Disability Insurance Program, 2016." (Washington, D.C.: October 2017.) Other SSA-funded research, using longitudinal data rather than measures from only one point in time, found that 3.7 percent of SSDI's beneficiaries who entered the program in 1996 had left the program after finding work by 2006. See Liu, Su and David Stapleton. "How Many SSDI Beneficiaries Leave the Rolls for Work? More Than You Might Think." *Disability Policy Research Brief* Number 10-01. (Washington, DC: Mathematica Policy Research, April 2010).

⁶ Council for Disability Awareness. *2014 Long Term Disability Claims Review*. 2014 (Portland, Maine: Council for Disability Awareness).

Another industry survey estimated that the five largest insurers in the PDI market held about half of the market share of premiums paid.⁷ PDI policies can be offered either on an opt-in basis, in which employees who choose to pay for PDI receive it, or on an opt-out basis, where employees are automatically enrolled in PDI, but can decline (opt-out of) the insurance.⁸

Other Disability Protections for Workers

Beyond the insurance market for PDI, workers may be eligible for other types of disability protection through their employment. For example, 38 percent of workers have employer-sponsored short-term disability coverage according to BLS, but unlike SSDI, this coverage typically lasts 6 months. In addition, state workers' compensation programs generally provide payments and assistance to individuals who are injured on the job, while both SSDI and PDI are designed to replace lost income from the onset of any disability regardless of whether it was work-related.⁹ Also, some workers may be eligible for disability payments through defined benefit pension plans. These benefits, commonly known as disability retirement benefits, provide eligible workers with early retirement payments if they can no longer work because of the onset of a disability.¹⁰ According to BLS data, many workers covered by defined benefit pension plans are state and local workers, though these data do not show what portion of them are not covered by SSDI.¹¹

⁷ LIMRA. *U.S. Group Disability Insurance 2016 Annual Review*. 2017 (Hartford, Connecticut: LIMRA).

⁸ A large insurer with whom we spoke told us that opt-out PDI plans were increasingly common, but still a small percentage—around 2 percent—of its applicable PDI plans.

⁹ In addition, the Federal Employees' Compensation Act (FECA) provides compensation benefits to civilian employees of the United States for disability due to personal injury sustained while in the performance of duty or to employment-related disease. See 5 U.S.C. §§ 8101-8193.

¹⁰ We previously reported that coverage through defined-benefit pension plans has decreased in recent decades. GAO, *The Nation's Retirement System: A Comprehensive Re-evaluation Is Needed to Better Promote Future Retirement Security*, [GAO-18-111SP](#) (Washington, D.C.: Oct., 2017).

¹¹ According to BLS officials, in 2016 about 13.4 million state and local workers and in 2014 about 9.6 million private sector workers had a disability retirement option in their pension plan.

Proposals to Expand PDI

From our literature review, we identified three distinct proposals for expanding PDI in order to potentially alleviate financial challenges facing the SSDI program. These proposals were made in studies authored by: David Babbel and Mark Meyer (Babbel and Meyer) of Charles River Associates, Rachel Greszler (Greszler) of The Heritage Foundation, and David Autor and Mark Duggan (Autor and Duggan) for The Center for American Progress and the Hamilton Project.¹² While the proposals differed in how PDI expansion might be achieved, each proposal assumes or requires that PDI coverage would provide vocational assistance, workplace accommodations, and partial income replacement to employees with work-limiting disabilities.¹³ Each proposal assumed that PDI expansion would result in the provision of effective return-to-work assistance earlier than would occur under SSDI. According to the authors, their proposals would slow the growth of the SSDI program by increasing work attachment of potential applicants or beneficiaries of SSDI and reversing the decline in employment rates of work-capable adults with disabilities, thereby improving the long-term solvency of the Social Security system.¹⁴ Two of the proposals suggested piloting the approaches to assess potential savings and implementation issues.

¹² We identified a fourth proposal that would—in addition to giving employers and insurers an expanded role in providing disability benefits in lieu of SSDI for a 2 year period—change SSDI benefits from permanent to temporary and provide SSDI partial disability awards, as well. Since the proposal was not solely focused on expanding PDI and its provisions for expanding PDI were similar to other proposals we identified, we did not include it in our review. See Jason J. Fichtner and Jason S. Seligman, “Beyond All Or Nothing: Reforming Social Security Disability Insurance To Encourage Work and Wealth” (chapter 13) in *SSDI Solutions: Ideas To Strengthen The Social Security Disability Insurance Program*, by Jim McCrery and Earl Pomeroy (West Conshohocken, PA: Infinity Publishing, March 2016).

¹³ Based on discussions with insurers and our review of three sample policies, PDI may provide vocational assistance and workplace accommodations or reimburse the employer for such services.

¹⁴ The proposals also cited additional benefits beyond potential savings for SSDI. For example, all three proposals cited potential gains in financial security for the individual, two cited potential psychological benefits or individual well-being benefits, and one cited potential improvements to the overall economy and an increase in government revenue.

SSDI Covers a Much Larger Portion of the Workforce than PDI, and Features of Coverage Differ

SSDI Covers Almost All Workers, Whereas PDI Covers About One-Third of Workers, Who Are Generally Higher-Paid

According to our analysis of SSA and BLS data, nearly all American workers pay Social Security taxes and are potentially covered by SSDI, while only a third of workers have PDI coverage. For SSDI, an estimated 96 percent of American workers, along with their employers, pay Social Security payroll taxes, a portion of which are used to fund SSDI.¹⁵ Of individuals aged 20 or older in 2016, 87 percent met the SSA work requirements to be eligible for benefits in the event of a disability.¹⁶

By contrast, as of March 2017, the Bureau of Labor Statistics (BLS) estimates that approximately 33 percent of the workforce is insured by employer-sponsored PDI where the employer pays at least some of the premium.¹⁷ Employees may also pay the entire premium of employer-sponsored PDI—and researchers we interviewed from three private sector organizations that survey the PDI market told us that these plans are a minority of the PDI market. However, neither BLS nor industry

¹⁵ The remaining 4 percent not covered by SSDI are mostly public sector workers in state and local government. About one-fourth of public-sector employees do not pay Social Security taxes on the earnings from their government jobs. Also, individuals who began working for the federal government starting in 1984 have been covered by Social Security though federal employees hired before 1984 are generally not covered. See GAO, *Social Security: Issues Regarding the Coverage of Public Employees*, [GAO-08-248T](#) (Washington, D.C.: Nov. 6, 2007).

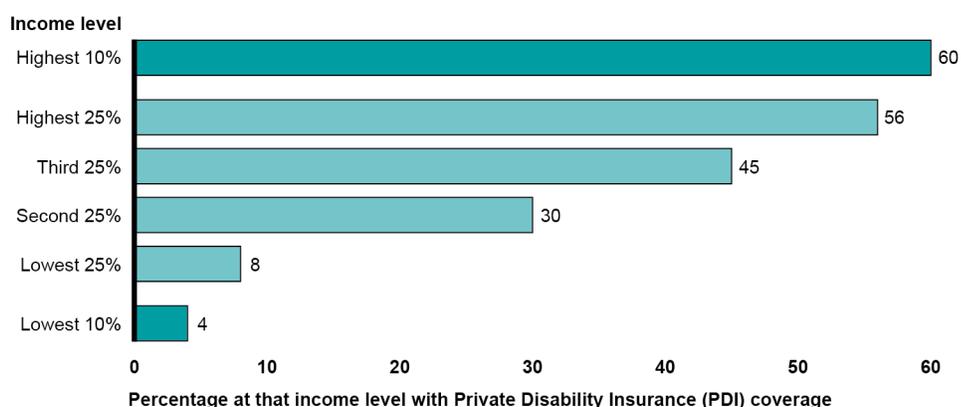
¹⁶ In order to be eligible for SSDI payments, an individual generally needs 40 quarters of credits, 20 of which were earned in the last 10 years ending with the year the individual becomes disabled. In 2017, a work credit is earned for each \$1,300 of wages or self-employment income. Up to four credits can be earned each year.

¹⁷ BLS also tracks employee access to PDI, which is defined as the number of employees who have a PDI benefit that is available for their use. For March 2016, BLS reported that 34 percent of workers had access to PDI and that 33 percent of workers participated in PDI, a 97 percent take-up rate.

surveys comprehensively track the extent of PDI coverage where employees pay 100 percent of the premium cost.¹⁸

In addition, while SSDI coverage is higher across all industries and income levels, PDI coverage is much more prevalent at higher wage levels and in certain occupations and industries than others. In particular, as of March 2017, 60 percent of those in the highest 10 percent of wage earners had PDI, whereas 4 percent of those in the lowest 10 percent did (see fig. 1).

Figure 1: Private Disability Insurance (PDI) Participation Rates by Income Category, 2017, Paid In Whole or In Part by Employers



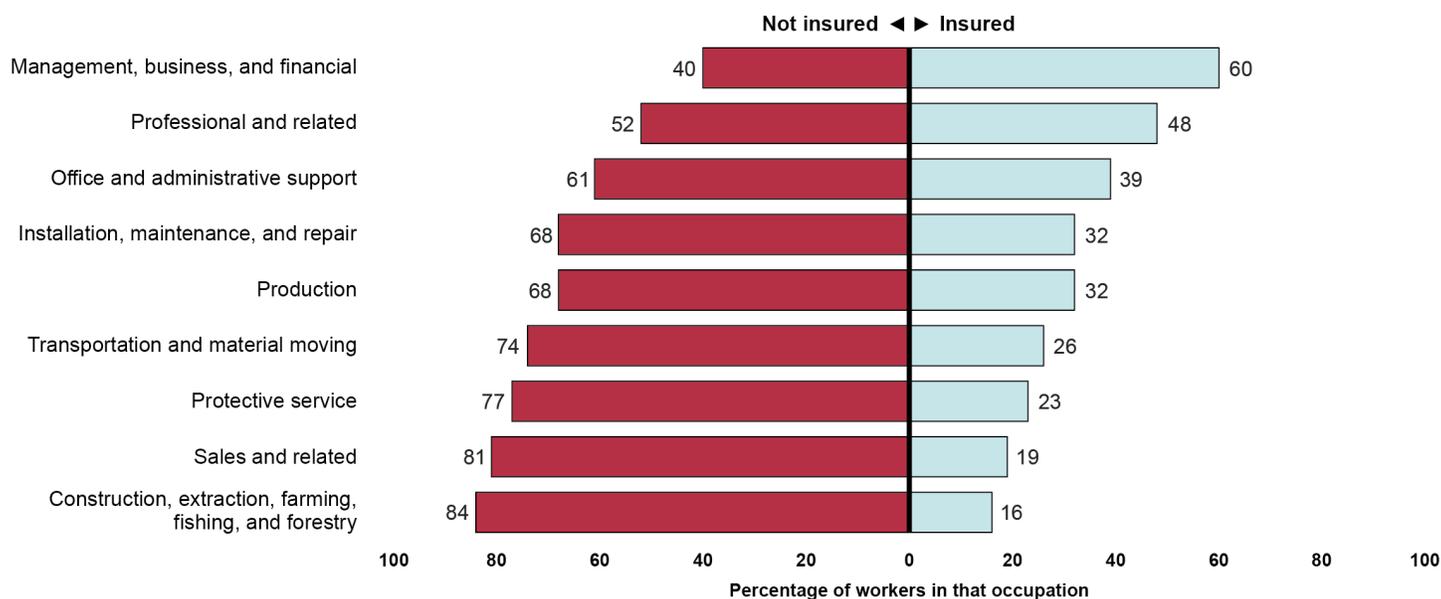
Source: GAO Analysis of Bureau of Labor Statistics National Compensation Survey Data. | GAO-18-248

Note: PDI totals in this figure refer to employer-sponsored long-term private disability insurance, as reported in the National Compensation Survey. This survey includes workers in civilian nonfarm industries (except those employed in private households and workers in the federal government). This survey does not include PDI plans where the employer does not pay any of the cost of the premiums.

¹⁸ Benefits that are employer-sponsored but that are paid for entirely by employees are not captured as part of the National Compensation Survey conducted by BLS, and therefore are not included in these totals. Other industry surveys include queries regarding employer-sponsored PDI that is paid entirely by employees, but the nationwide proportion of employees that pay the entire premium is not fully captured by these surveys. For example, the Employee Benefit Research Institute (EBRI) surveys employees about benefits and asked employees who pays for PDI, regardless of whether the employee participated in PDI. According to EBRI researchers with whom we spoke, among those surveyed and who have an employer-sponsored PDI policy, 21 percent of employees said that the employer pays nothing toward their PDI premium. LIMRA, which is a private-sector research firm, has reported that for insurers that can break out their premium data, 23 percent of the premiums insurance companies receive for employer-sponsored PDI policies were from employees that paid the entire premium.

Our analysis of BLS data found that differences in PDI coverage also exist by occupation and industry. Specifically, 60 percent of workers in business and financial operations occupations have PDI coverage, compared to 16 percent of workers in construction, extraction, farming, fishing, and forestry occupations that have PDI (see fig. 2). Broad differences in PDI coverage also exist by industry; for example, 83 percent of workers in utilities have PDI, but only 5 percent of workers in leisure and hospitality have PDI (see fig. 3). According to researchers from one organization with whom we spoke, the higher rates of PDI coverage reflect areas where labor markets are more competitive, leading employers to offer PDI to attract employees.

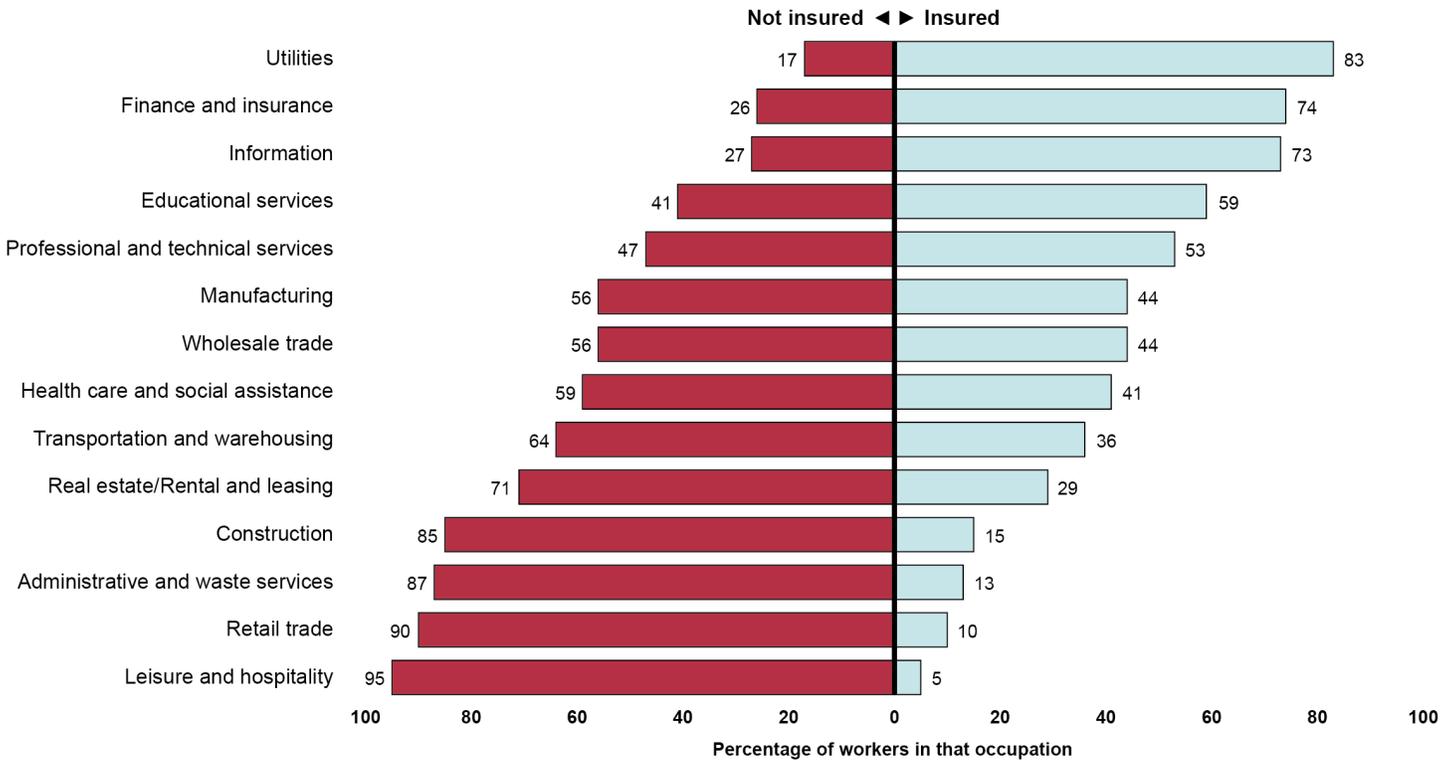
Figure 2: Percentage of Civilian Workers with Private Disability Insurance (PDI) Paid In Whole or In Part by Employers, for Selected Occupations, March 2017



Source: GAO analysis of Bureau of Labor Statistics National Compensation Survey Data. | GAO-18-248

Note: PDI totals in this figure refer to employer-sponsored long-term private disability insurance, as reported in the National Compensation Survey. These occupational categories were selected because they correspond to the high-level occupational categories used in the survey. These occupation data include workers employed in the civilian nonfarm industries (except those in private households and workers in the federal government). Workers in agricultural occupations in nonfarm industries, such as those on a farm operated by a non-profit organization, are included in the survey.

Figure 3: Percentage of Private-Sector Workers with Private Disability Insurance (PDI) Paid In Whole or In Part by Employers, for Selected Industries, March 2017



Source: GAO analysis of Bureau of Labor Statistics National Compensation Survey Data. | GAO-18-248

Note: PDI totals in this figure refer to employer-sponsored long-term private disability insurance, as reported in the National Compensation Survey. These industry categories were selected because they correspond to high-level industry categories used in the survey. These data include workers employed in private nonfarm industries except those in private households.

SSDI and PDI Differ in Many Respects, Including Eligibility, Benefit Level, and Approach to Return to Work

Eligibility

Our review of SSDI program rules and PDI policies indicates that eligibility for PDI is similar in some ways to eligibility for SSDI. For example, both allow individuals with many types of disabilities to receive benefits until retirement, recovery, or death. However, there are also some significant differences, as SSDI and PDI have different definitions

and employment requirements. According to SSDI program rules, to meet SSDI's definition of disability, an individual must have a medically determinable physical or mental impairment that (1) has lasted or is expected to last at least 1 year or to result in death and (2) prevents the individual from engaging in substantial gainful activity.¹⁹ SSA uses a list of medical conditions—established in regulations—that it considers severe enough to entirely prevent an individual from working. Benefits can also be provided for medical conditions that are not on the list if the medical condition or combination of medical conditions meets or equals the severity of those on the list.²⁰ SSA also considers additional factors—such as an individual's residual functional capacity, relevant past work, age, education, and work experience. SSA can determine that the medical conditions combined with the applicable factors preclude the individual from performing his or her prior work or any other work in the national economy.²¹ Eligibility for granted SSDI benefits continues until retirement or death, or until SSA deems that the underlying medical conditions have sufficiently improved or that the individual has become gainfully employed.

In contrast, typical PDI policies have provisions related to inability to work that may compensate workers in a wider range of circumstances than SSDI does, although these provisions become more strict after 2 years.²² For the first 2 years of PDI benefits, policies generally define disability as the inability of an individual to work his or her own occupation. For disabilities that last for more than 2 years, a typical PDI policy changes how it defines disability from the inability to work in one's previous occupation, to the inability to work in any occupation offering a

¹⁹ 42 U.S.C. § 423(d). Substantial gainful activity is generally work activity involving significant physical or mental activities that are done for pay or profit, whether or not a profit is realized. 20 C.F.R. § 404.1572. The substantial gainful activity earnings amount in 2018 is \$1,180 per month or \$1,970 if blind.

²⁰ However, on March 29, 1996, Congress passed the Contract with America Advancement Act of 1996, which amended the Social Security Act to specify that an individual shall not be considered to be disabled for purposes of SSDI payments if alcoholism or drug addiction would be a contributing factor material to the individual's disability determination.

²¹ See 20 C.F.R. § 404.1520.

²² Our description of PDI features refers to employer-sponsored long-term private disability insurance and is based on our review of three PDI policies that three large insurers identified as typical, a literature review, and interviews with agency officials and various industry stakeholders

reasonable income, which was 60 percent of pre-disability earnings in the three sample policies we examined. Similar to SSDI, PDI benefit payments generally continue for the length of the disability or until retirement; however, unlike SSDI, benefits paid for certain conditions, such as mental health conditions, are generally limited to 2 years. Also unlike SSDI, PDI policies typically include a pre-existing condition provision, whereby benefits are not paid if the applicant received treatment, services, or consultation or took medication for the condition in the 3 months prior to being insured.²³

The requisite time period between the onset of a disability and when benefits can begin is comparable between SSDI and PDI, according to our review of SSDI program rules and PDI policies; however, the time it takes to process and make decisions on claims may run longer for SSDI. For both SSDI and PDI, benefits do not usually start immediately upon disability onset. SSDI and PDI applicants must apply for benefits and usually wait for a period of time—known as a waiting period for SSDI and as an elimination period for PDI—for payments to begin.²⁴ The waiting period for SSDI benefits is 5 months after disability onset. For the PDI policies we examined, the elimination period ranged from 3 to 6 months after onset.²⁵ Another factor affecting the time to receipt of benefits is the time it takes to award the benefit. For PDI, federal regulations under the Employee Retirement Income Security Act of 1974 (ERISA) that govern claims in ERISA-covered plans, including disability claims, generally require initial claims to be decided within 45 days after receipt of the claim by the plan, with some ability to extend for two 30 day periods based on reasons beyond the plan’s control.²⁶ PDI claimants may also appeal the

²³ Generally, based on PDI policies we reviewed, after someone has been covered under a policy for 12 consecutive months and has not made a claim, the pre-existing exclusion no longer applies.

²⁴ In this report, we use the term elimination period to encompass both the SSDI “waiting period” and the PDI “elimination period.” PDI policies we examined use the term “waiting period” differently, to describe a period before coverage begins. Therefore, to avoid confusion we use the term elimination period throughout this report to describe the time before benefits may begin.

²⁵ For policies we examined, PDI benefits would begin when either the elimination period or, if applicable, short-term PDI coverage ended.

²⁶ ERISA applies to most private sector employee benefit plans, including welfare plans (plans established or maintained to provide benefits such as health benefits or disability benefits) and retirement plans (plans established or maintained to provide retirement income or defer income until a later time).

initial decision.²⁷ On the other hand, based on our review of SSDI program rules, claims for SSDI are not subject to timing requirements established by law.²⁸ Further, denied claimants may appeal the initial decisions. The average decision time for appeals before Administrative Law Judges in fiscal year 2017 was 605 days, according to SSA's fiscal year 2017 performance report.²⁹

Our review of SSDI program rules and PDI policies also indicates that individuals are required to have longer employment periods for SSDI eligibility than for PDI, but PDI is generally not portable if the individual leaves the employer offering PDI. According to SSA guidance, individuals become eligible to receive SSDI payments after they have paid the Social Security payroll tax long enough—about 10 years for many—and recently enough to accumulate the required number of credits.³⁰ In contrast, the three sample PDI policies we reviewed contained 30-day waiting periods for coverage to begin. Further, part-time status and job changes affect PDI more than SSDI eligibility. SSDI's program rules generally allow for the work credits that an individual has accumulated to continue to count toward SSDI eligibility even if the individual is working part-time, changes jobs, or becomes unemployed or otherwise leaves the workforce. In comparison, PDI coverage, which is offered at the discretion of employers, is not generally portable, and may exclude part-time workers altogether—as was the case for the three “typical” PDI policies we

²⁷ Normally a claimant must complete the plan's internal claims procedures before filing an action in court.

²⁸ SSA does track timeliness against performance targets. In its fiscal year 2017 performance report, SSA reported that SSDI initial decisions in fiscal year 2017 took 111 days on average from the date of application, thereby meeting its target for average disability claims processing time of 113 days in fiscal year 2017.

²⁹ SSA program rules generally allow for four levels of appeal: reconsideration, hearing by an administrative law judge, review by the Appeals Council, and Federal Court review. According to SSA, individuals approved for SSDI at any of these levels are eligible for retroactive payments.

³⁰ The requisite number of work credits depends on the individual's age when they become disabled. Specifically, workers aged 31 and older generally must have 40 quarters of work credits with at least 20 quarters of coverage during the 40 calendar quarter period ending with the quarter in which their disability began. Workers under age 31 need quarters of coverage in at least one-half (not less than six) of the quarters in the period beginning with the quarter after the quarter they attained the age of 21 and ending in the quarter in which their disability began.

reviewed.³¹ Nationally, PDI coverage is much more prevalent among full-time workers than part-time workers. According to BLS data, 42 percent of full-time workers and 5 percent of part-time workers have PDI where the employer pays for all or part of the premiums. See Table 1 for a comparison of SSDI and PDI eligibility features.

Table 1: Comparison of Eligibility Features of Social Security Disability Insurance (SSDI) and Typical Private Disability Insurance (PDI) Policies

Eligibility features	SSDI program rules	PDI (typical policy)
Employment requirements	Must have enough and recent qualifying quarters of employment paying the relevant payroll tax—changes depending on age at onset of disability. Coverage continues if individual changes employers. Covers part-time workers.	Waiting period—typically 30 days—before coverage begins. Coverage generally ends if individual changes employers. Excludes part-time workers.
Exclusions	Conditions for which drug addiction or alcoholism are a contributing factor material to the determination of disability. Conditions that arise in connection with the commission (after October 19, 1980) by an individual of an offense which constitutes a felony under applicable law and for which such individual is subsequently convicted, or which is aggravated in connection with such an offense (but only to the extent so aggravated).	Pre-existing conditions and conditions that arise from risky behaviors (such as self-inflicted injuries, participation in a riot, committing criminal acts).
Benefit period	Benefits last until retirement, recovery, or death.	Benefits generally last until retirement, recovery, or death, but are time-limited for certain conditions, such as drug and alcohol illness, mental health conditions, musculoskeletal or connective tissue illnesses, chemical and environmental illness, fibromyalgia, and chronic fatigue.
Definitions of disability	Inability to engage in any substantial gainful activity—perform any work that exists in the national economy and (in 2018) earn no more than \$1,180 a month or \$1,970 if blind—due to a medically determined impairment that has lasted or is expected to last at least 1 year or to result in death.	Inability to perform work in their prior occupation. After 2 years of receiving benefits, unable to work any occupation and earn 60 percent of pre-disability income.
Elimination period	5 months after disability onset ^a	3 to 6 months after disability onset, or after a short-term disability policy ends, whichever is longer.

Source: GAO analysis of federal laws and regulations, Social Security Administration guidance; interviews with insurance representatives and sample PDI policy documents. | GAO-18-248

³¹ For PDI, individuals become eligible under the terms of the contract between their employer and an insurance provider, which define which employees are eligible for coverage. According to industry groups with which we spoke, employers may also choose PDI optional features in addition to standard features. These options can include different eligibility standards, cost-of-living adjustments, and different benefit levels.

Benefit Level

^aThis 5-month waiting period can be applied retroactively, but for no more than 17 months from the time of the application.

Note: Our description of PDI features refers to employer-sponsored long-term private disability insurance and is based on our review of three PDI policies that three large insurers identified as typical, a literature review, and interviews with agency officials and various industry stakeholders.

Our review of SSDI program rules and PDI policies indicates that SSDI benefit levels for individuals are generally lower than PDI but are designed to provide more income replacement for low-income workers than higher-income workers. Under federal law, SSA determines benefit amounts using a progressive formula, whereby low-income beneficiaries receive relatively higher benefit payments based on their average monthly earnings over the course of their career.³² For calendar year 2018, the formula pays 90 percent of the first \$896 of the individual's average monthly earnings, plus 32 percent of the earnings between \$896 and \$5,399, plus 15 percent of earnings over \$5,399. (See fig. 4 for the amount of benefits SSA paid in 2018 according to prior income levels.) Using the formula, we calculated that at an average indexed annual earnings of \$44,000, the monthly benefit would be \$1,693, which is 46 percent of prior average monthly earnings.³³ Under the formula, workers earning less would receive a higher proportion of their prior average, while workers earning the taxable maximum (set at \$128,400 for 2018) or more would be eligible to receive \$3,042 per month, which is at most 28 percent of their earnings.³⁴ Under federal law, disabled workers with qualifying dependents may receive additional SSDI payments, up to 50 percent of their individual benefit amount.³⁵ Therefore, according to our calculations, the maximum family benefit for average annual indexed

³² SSDI's benefit formula averages a worker's highest 35 years of earnings, which are indexed to reflect the change in general wage levels that occurred during the worker's years of employment. For further details, see [GAO-16-75SP](#).

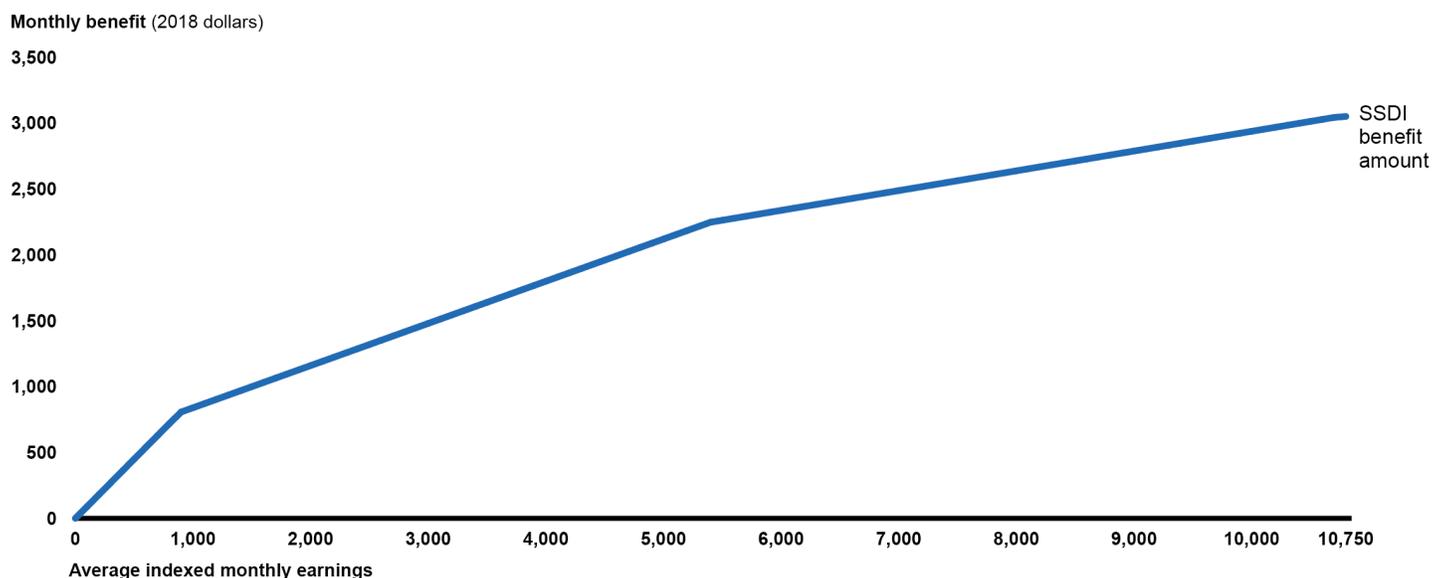
³³ The percentage of the insured worker's earnings replaced would also be higher under certain circumstances if a minor dependent child, spouse, and/or adult dependent were included as beneficiaries.

³⁴ Social Security limits the amount of earnings subject to taxation for a given year. The same annual limit also applies when those earnings are used in a benefit computation. This limit changes each year with changes in the national average wage index.

³⁵ According to SSA data, around a million disabled workers received dependent benefits in 2016, and most of them received the maximum family benefit amount. More than half (649,321) of these families were families with one dependent child.

earnings of \$44,000 would be \$2,540, which is 69 percent of prior average monthly earnings.³⁶

Figure 4: Social Security Disability Benefit Amounts at Different Income Levels



Source: GAO analysis of Social Security Disability Insurance (SSDI) data. | GAO-18-248

By contrast, up to certain income levels, PDI policies typically replace 60 percent of an employee’s current salary if the employee is unable to continue working his or her prior job.³⁷ Therefore, a worker earning \$44,000 annually in their prior job would receive \$2,200 per month. For high-income workers, PDI policies typically have a monthly maximum payment. In one PDI policy we reviewed, this monthly maximum was \$5,000. Employers and employees pay for SSDI through payroll taxes on employees’ wages and salaries, so the cost to employers and employees only varies based on employees’ wages and salaries. Federal law also determines the part of the payroll tax that is allocated for SSDI, half of

³⁶ Under federal law, for lower-income beneficiaries, maximum family benefits are capped at the workers’ individual benefit amount. As benefits replace less income, the maximum is the smaller of either 85 percent of the workers’ average monthly earnings or 150 percent of their individual benefit amount, but cannot be less than the individual’s benefit amount.

³⁷ When calculating a covered individual’s current salary, PDI policies may not include commissions, bonuses, and overtime.

which is contributed by the employee and half by the employer.³⁸ For PDI, either employers, employees, or a combination of the two make premium payments, depending on the policy negotiated between the insurer and the employer. According to industry representatives with whom we spoke, premiums may vary based on many factors, such as wages and salaries, the length of the elimination period, rate of income replacement, type of industry, and a company's prior claim experience.³⁹

Another difference between SSDI and PDI benefit levels is their treatment of partial benefits or partial disability determinations. SSDI program rules do not provide partial payments to individuals who have lost some but not all of their ability to earn income in the national economy. In contrast, some PDI policies may pay benefits for a partial disability. For example, in one of three policies we examined, workers could qualify for partial benefits, at lower levels, if they were partially unable to achieve their previous earnings because of a disability.

PDI policies generally require beneficiaries to apply for SSDI and, if found eligible, PDI payments are typically adjusted downward (offset) by the amount of SSDI payments.⁴⁰ There is no similar requirement or payment adjustment for SSDI beneficiaries.⁴¹ In cases where PDI beneficiaries are not required to or do not apply for SSDI, PDI policies we reviewed would still reduce their PDI payment by the SSDI amount that the beneficiaries may have been entitled to receive. The PDI payments would be reduced for the full amount of the SSDI payments, including any SSDI payments

³⁸ For 2016 through 2018, the combined payroll tax rate allocated for SSDI is 2.37 percent. This is the result of a temporary reallocation of the Social Security payroll tax rate between the OASI and Disability Insurance Trust Funds. For 2019 and later, the Disability Insurance Trust Fund share is scheduled to return to its 2015 level of 1.80 percent.

³⁹ We did not obtain current premium information for PDI, although a 2016 industry survey of 30 disability insurance companies reported average in-force annual premiums of \$256 per person and new sales annual premiums per person of \$233.

⁴⁰ One policy we reviewed required individuals who are or become eligible for such income (either from SSDI or other benefits) to apply; another policy required the PDI beneficiary to provide proof that they applied for SSDI benefits.

⁴¹ SSDI benefits may be adjusted for other sources of income, though not for PDI payments. For example, according to SSA guidance, SSDI beneficiaries in most states may be subject to a reduction in their SSDI payments if they also receive workers' compensation or other public disability benefits and the total amount of these benefits would exceed 80 percent of the worker's average earnings before the worker became disabled. In this situation, SSDI benefits would be reduced so the benefits from these sources would not exceed the threshold.

for the worker's spouse and dependents, but will typically maintain a minimum PDI benefit. The three PDI policies we reviewed provide a minimum \$100 monthly benefit when the SSDI offset would otherwise totally eliminate the PDI benefit or reduce it below \$100 a month. According to insurers we interviewed and PDI policies we reviewed, insurers will assist PDI beneficiaries with their SSDI applications, and if necessary, provide legal assistance for SSDI appeals processes. According to one industry survey, 72 percent of PDI beneficiaries also qualified for SSDI.⁴² PDI benefits may also be reduced by the amount of income from other sources such as workers' compensation payments, sick leave, or severance pay from an employer.

Additionally, under federal law, SSDI confers Medicare eligibility after 2 years. In contrast, insurance associations and our review of PDI policies indicate that PDI policies do not typically provide health care benefits. Table 2 provides a summary of SSDI and PDI benefit features.

Table 2: Comparison of Benefit Features of Social Security Disability Insurance (SSDI) and Typical Private Disability Insurance (PDI) Policies

Benefit features	SSDI program rules	PDI (typical policy)
Rate of Income Replacement	Progressive formula based on average indexed earnings, which results in proportionally higher benefits (up to 90 percent of prior earnings) for lower-income beneficiaries.	60 percent of the salary of the applicant's last occupation (may not include commissions, bonuses, and overtime). Monthly benefits capped for higher earners.
Partial benefits	Not available.	May be available for individuals whose disabilities affect some but not all of their ability to earn income.
Effect of SSDI and PDI Payments on the Other	SSDI payment is not affected by PDI payments.	PDI payment is reduced by the amount of any SSDI payments to worker, spouse, and dependents. Minimum PDI payment of \$100 per month.
Coverage of dependents	Spouses, children, and widows and widowers may be eligible for benefits. Benefits for a disabled worker plus dependent family members are capped at 150 percent of the worker's individual benefit.	Not covered.
Medical benefits	Medicare eligibility conferred after 2 years.	Not included.
Cost of Coverage	Payroll tax on employees' wages and salaries, paid by employers and employees.	Annual premiums paid by employers and/or employees. Premiums vary based on multiple factors.

Source: GAO analysis of federal laws and regulation, Social Security Administration guidance, interviews with insurance representatives, and sample PDI policy documents. | GAO-18-248

⁴² Council for Disability Awareness, *2014 Long Term Disability Claims Review* (Portland, Maine: Council for Disability Awareness).

Note: Our description of PDI features refers to employer-sponsored long-term private disability insurance and is based on our review of three PDI policies that three large insurers identified as typical, a literature review, and interviews with agency officials and various industry stakeholders.

Return to work incentives and assistance

Both SSDI and PDI policies include incentives to return to work, such as allowing beneficiaries to retain some earnings when they return to work, but PDI policies may provide return-to-work services sooner than SSDI. As long as they continue to meet SSDI's eligibility criteria, beneficiaries can earn up to the substantial gainful activity amount each month, without any impact on their SSDI benefit, according to SSDI program rules.⁴³ SSDI program rules also provide work incentives in the form of a trial work period, which allows the beneficiary to receive full disability benefits while potentially earning more than the substantial gainful activity amount, for up to 9 months.⁴⁴ SSDI beneficiaries who earn above the substantial gainful activity threshold after 9 months of a trial work period will no longer receive SSDI cash benefits, but will continue to receive Medicare coverage, if enrolled, for up to 7 years and 9 months. After the trial work period ends, the 36-month extended period of eligibility begins, during which SSDI beneficiaries are entitled to receive benefits so long as they continue to meet the definition of disability and their earnings are below the substantial gainful activity monthly earnings limit. Moreover, individuals whose benefits stopped due to work may have their benefits reinstated under an expedited reinstatement if for medical reasons they are unable to work again at some point within 5 years. Under this expedited reinstatement, beneficiaries receive up to 6 months of

⁴³ According to Mathematica an estimated 11.4 percent of beneficiaries in December 2011 were working with earnings under the substantial gainful activity amount while receiving SSDI benefits. See *Employment, Earnings, and Primary Impairments Among Beneficiaries of Social Security Disability Programs*, Mathematica Policy Research (Washington, D.C.: November 7, 2013).

⁴⁴ For 2018, a month in which an SSDI beneficiary earns more than \$850 or works more than 80 hours in self-employment is considered a "month of services" for that beneficiary's trial month period. During the trial work period, the beneficiary receives full SSDI benefits, regardless of how high their earnings might be as long as they report their work activity and have a disabling impairment. The 9 months of the trial work period do not need to be consecutive, but must take place within the same 60 month period. As an additional financial incentive, when SSA assesses a beneficiary's gross earnings to determine if they have reached substantial gainful activity, the beneficiary can deduct the cost of impairment-related work expenses, which are items and services that because of impairment the beneficiary needs to work. For example, service animals, structural or operational modifications to a vehicle, and medical devices such as a wheelchair or a respirator can count as expenses that enable a beneficiary to work. See Social Security Administration, *2016 Red Book: A Summary Guide to Employment Supports for Persons with Disabilities Under the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) Programs*. (Baltimore, MD: 2016).

temporary cash benefits while SSA conducts a medical review. Despite these SSDI provisions, participants of a 2013 Social Security Advisory Board Forum have criticized the SSDI program for having poorly structured work incentives,⁴⁵ and we have previously reported that complex SSDI rules related to these work incentives may result in overpayments to beneficiaries.⁴⁶

PDI policies we reviewed also provide for continued payments while beneficiaries participate in the insurer's return-to-work program or find other employment. However, in contrast to what is referred to as SSDI's "cash cliff," PDI payments are gradually reduced in some ways to account for the beneficiaries' earnings. For example, in one policy we reviewed, if the beneficiary participates in the insurer's return-to-work program, the beneficiary may continue receiving benefit payments in addition to any employment earnings. However, unlike SSDI, the combination of the employment earnings plus the PDI payment would be capped at 110 percent of the beneficiary's pre-disability earnings. Under this same policy, after the first 12 months that the beneficiary is disabled and working at a reduced capacity, the partial PDI payment decreases proportionally as the employment earnings increase until the beneficiary earns 80 percent of their pre-disability earnings, at which point they are no longer considered to be disabled. The other two policies we reviewed provided pro-rated PDI payments as soon as a beneficiary had some work earnings, until those earnings reach a threshold, such as 80 or 100 percent of their pre-disability earnings.⁴⁷

⁴⁵ In particular, participants of the forum cited the marked reduction in SSDI benefits—referred to as the "cash cliff"—after completion of the trial work period. See Social Security Advisory Board, *2013 Forum Summary. Social Security Disability: Time for Reform*. (Washington, D.C.: March 8, 2013). For additional details on SSDI's work incentives, see Social Security Administration, *2016 Red Book: A Summary Guide to Employment Supports for Persons with Disabilities Under the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) Programs*. (Baltimore, MD: 2016).

⁴⁶ See Disability Insurance: SSA Could Do More to Prevent Overpayments or Incorrect Waivers to Beneficiaries, [GAO-16-34](#) (Washington, D.C.: Oct. 29, 2015). In that report, we recommended that SSA take steps to enhance beneficiary understanding of program requirements, including clarifying work reporting requirements provided to beneficiaries and increasing the frequency of reporting reminders to SSDI beneficiaries so that they are more similar to those available to Supplemental Security Income beneficiaries. SSA has not implemented this recommendation.

⁴⁷ In one policy we examined, work earnings used to reduce PDI benefits would take into account commissions, bonuses, and overtime, even though these types of earnings are not be included when initially determining PDI benefits levels.

Both SSDI and PDI policies offer services and supports to beneficiaries to help them return to work, but PDI policies may focus more on early provision of services and, depending on the policy, earlier intervention and case management. SSDI program rules allow beneficiaries access to return-to-work services and supports through the Ticket to Work (TTW) program, which helps interested beneficiaries transition to self-sufficiency through work.⁴⁸ When individuals become eligible for SSDI, SSA guidance calls for sending them information about public or private employment networks or state vocational rehabilitation agencies. According to SSA's guidance, beneficiaries can choose to work with one of these service providers and develop a plan for work goals that may involve services such as training, career counseling, vocational rehabilitation, and job placement. The TTW program then pays for those services and ensures that participating beneficiaries will not be subject to a review of their disability while they continue to work with the service provider. However, the SSA Office of the Inspector General reported that fewer than 3 percent of beneficiaries were participating in TTW in 2015.⁴⁹ In addition, SSA-funded evaluations have found that TTW has had limited success in returning SSA beneficiaries to work and reducing their dependence on SSDI.⁵⁰

In addition to return-to-work services through TTW, SSA officials told us that beneficiaries may use services provided through or by other federal,

⁴⁸ The Ticket to Work and Self Sufficiency Program, established in 1999, provides eligible beneficiaries (ticket holders) with a ticket they may assign to SSA-approved public or private providers (referred to as employment networks) or from traditional state vocational rehabilitation agencies. Employment networks or state agencies are to provide employment services, vocational rehabilitation services, or other support services to help ticket holders obtain and retain employment and reduce dependence on SSA benefits. See also, GAO, *Social Security Disability: Ticket to Work Participation Has Increased, but Additional Oversight Needed*, [GAO-11-324](#) (Washington, D.C.: May 6, 2011).

⁴⁹ See Social Security Administration Office of the Inspector General, *The Ticket to Work Program: Informational Report* (Baltimore, MD: September 2016). According to this report, 436,613 beneficiaries participated in the Ticket to Work (TTW) program in 2015, and SSA paid around \$237 million for these services, which averaged \$543 per participant. This report also noted that, of the 65,702 beneficiaries who participated in the Ticket to Work program in 2004, 13,277 had earned enough income to have their benefits suspended for at least 1 month between 2004 and 2014.

⁵⁰ A SSA-funded series of evaluations of Ticket to Work found that although it is targeting individuals interested in employment, rigorous impact analyses failed to provide strong evidence of its impact on employment. However, the evaluators also noted that changes in Ticket to Work regulations and the national unemployment rate may influence the impact of the program in the future. Mathematica Policy Research, *Executive Summary of the Seventh Ticket to Work Evaluation Report*. (Washington, D.C: July 20, 2013).

state, and local programs or provider networks, such as the Department of Labor's Stay-at-Work/Return-to-Work initiative. However, we have previously reported that the large number of federal agencies and programs providing employment supports to individuals with disabilities represents a fragmented system of services, and little is known about their effectiveness.⁵¹

In contrast, according to insurance representatives and the three PDI policies we reviewed, PDI policies may provide early interventions, funding for workplace accommodations, and case management to help beneficiaries return to work. For example, one policy we reviewed explicitly offered an early intervention program to covered employees even when the PDI insurer was not also the short-term disability insurer, to identify workers who might benefit from vocational analyses and rehabilitation services before they are eligible for long-term disability benefits.⁵² Separately, this policy also had a return-to-work program with case managers who coordinate services and refer beneficiaries to clinical specialists, such as nurse consultants, psychiatric clinical specialists or vocational rehabilitation consultants. According to this policy, if the insurer determined that beneficiaries were capable of participating in the return-to-work program, but did not, their benefits could cease.

Information on how many PDI beneficiaries receive work assistance, such as worksite modifications, and insurers' aggregate expenditures for such assistance is also generally unknown. While participation in and the impact of SSA's TTW program has been extensively evaluated, the insurance representatives and researchers with whom we spoke could not provide us with data or studies showing the extent or cost of work assistance provided by PDI insurers, so the impact of these investments is not publicly known. See Table 3 for a comparison of SSDI and PDI policies' work incentives and assistance.

⁵¹ GAO, *Employment for People with Disabilities: Little Is Known about the Effectiveness of Fragmented and Overlapping Programs*, [GAO-12-667](#) (Washington, D.C.: June 29, 2012).

⁵² According to an employer group with which we spoke, employers with long-term PDI often also offer short term disability coverage, which may provide such assistance before the long-term PDI policy becomes effective.

Table 3: Comparison of Selected Return-to-Work Features of Social Security Disability Insurance (SSDI) and Typical Private Disability Insurance (PDI) Policies

Selected Return-to-work features	SSDI program rules	PDI (typical policy)
Work incentives	<p>Full payments continue if beneficiary has earnings below Substantial Gainful Activity, and for 9 months during a trial work period.</p> <p>Post-trial work period: payments cease but Medicare coverage continues for up to 7 years and 9 months; individual is entitled to a 36-month extended period of eligibility if the individual continues to meet the disability definition and earn less than the substantial gainful activity monthly earnings limit; and may qualify for expedited reinstatement for 5 years.</p>	<p>Payments may continue during a return-to-work period—on a pro-rated and/or capped basis according to the beneficiary’s earnings—until the beneficiary reaches a pre-disability earnings threshold set by the policy.</p>
Work assistance	<p>The Ticket to Work (TTW) program funds work assistance provided by state vocational rehabilitation agencies and other employment networks.</p>	<p>Rehabilitative services and workplace accommodation assistance for return- to-work available at insurer’s discretion. Insurers may have case management staff and/or early intervention efforts as part of standard benefits.</p>

Sources: GAO analysis of federal laws and regulations, Social Security Administration guidance, interviews with insurance representatives, and sample PDI policy documents. | GAO-18-248

Note: Our description of PDI features refers to employer-sponsored long-term private disability insurance and is based on our review of three PDI policies that insurers identified as typical, a literature review, and interviews with agency officials and various industry stakeholders.

Implications of Proposals to Expand Private Disability Insurance Cannot Be Assessed Due to Incomplete Information

Our literature review identified three distinct proposals to expand PDI—through some type of federal action—as a way to provide savings for SSDI; however, we were unable to assess the implications of these proposals on SSDI. Based on our review, there is an array of complex factors that could influence PDI expansion and SSDI cost savings—factors for which data, methods, and assumptions for projecting SSDI savings are either unreliable and unsupported, or unavailable. In addition, insurer, employer, and employee stakeholders we spoke with identified other implications of expanding PDI—but these implications cannot be ascertained because the proposals are not sufficiently detailed.⁵³

⁵³ We have previously reported that in evaluating reform proposals it is important to consider implementation, administration, and public understanding because they have the potential to delay—if not derail—reforms if not specifically taken into account in the proposals. For example, reforms that are not well understood could face difficulties in achieving broad public acceptance and support. See, GAO, *Social Security: Criteria for Evaluating Social Security Reform Proposals*, [GAO/T-HEHS-99-94](#) (Washington D.C.: March 25, 1999).

PDI Expansion Proposals Foresee Savings

The three distinct PDI expansion proposals we identified include the following:

- David Babbel and Mark Meyer (Babbel and Meyer) of Charles River Associates proposed that voluntary employer-sponsored PDI coverage could be extended to more working Americans through congressional action and the federal government facilitating education and outreach efforts.⁵⁴ Specifically, they recommended the enactment of legislation to make it clear to employers that automatic enrollment with “opt-out” arrangements under employer-sponsored group disability plans is legal. The authors believe this will address confusion and uncertainty that is holding employers back from providing PDI.
- Rachel Greszler (Greszler) of The Heritage Foundation proposed encouraging employers to voluntarily provide PDI in exchange for a payroll tax credit.⁵⁵ Under this proposal, participating employers would qualify for the tax credit by covering the first 2 or 3 years of PDI benefits at least equivalent to SSDI benefits to employees. Workers awarded benefits under the employers’ PDI would transfer to the SSDI program if their disability continued beyond the first 2 or 3 years and they qualified for SSDI. PDI would then cease to provide benefits, unless employers chose to extend the PDI policies. According to the author, if an individual is denied PDI benefits, the individual could apply for SSDI.
- David Autor and Mark Duggan (Autor and Duggan) proposed extending coverage of PDI to all workers through a statutory mandate.⁵⁶ Employers would be required to provide PDI benefits for 2

⁵⁴See David F. Babbel and Mark F. Meyer, “Expanding Private Disability Insurance Coverage to Help the SSDI Program” (chapter 9) of *SSDI Solutions: Ideas to Strengthen the Social Security Disability Insurance Program*, The McCrery-Pomeroy SSDI Solutions Initiative, A Project of the Committee for a Responsible Federal Budget (West Conshohocken, PA: Infinity Publishing, March 2016). The study was prepared and submitted at the request of and with funding by America’s Health Insurance Plans (AHIP) and the American Council of Life Insurers (ACLI). The proposal used a similar analysis to establish that PDI results in SSDI cost savings in a previous paper prepared by these authors on behalf of AHIP, *Private Disability Insurance and Return-to-Work: Cost Savings to SSDI and Other Federal Programs*.

⁵⁵ See, Rachel Greszler, *BACKGROUND: Private Disability Insurance Option Could Help Save SSDI and Improve Individual Well-being* (Washington, D.C.: The Heritage Foundation, July 2015).

⁵⁶ See David H. Autor and Mark Duggan, *Supporting Work: A Proposal for Modernizing the U.S. Disability Insurance System* (Washington, D.C.: Center for American Progress and The Hamilton Project, December 2010).

years to individuals with disabilities who are unable to work. At the end of this period, PDI benefits would cease and SSDI would provide benefits for individuals qualifying for SSDI. Under the proposal, individuals with extremely disabling conditions with very limited prospects of returning to work (e.g. stroke, late stages of certain cancers, etc.) would be eligible to apply for SSDI at the onset of their disability, in lieu of PDI.⁵⁷

Table 4 summarizes key features of the three proposals to expand PDI that we identified.

Table 4: Key Features of Proposals to Expand Private Disability Insurance (PDI)

Key feature	Three proposals to expand PDI		
	Babbel and Meyer	Greszler	Autor and Duggan
PDI Expansion Mechanism	Voluntary. Encourage employers to cover workers through auto-enrollment.	Voluntary. Encourage employers to cover workers in lieu of Social Security Disability Insurance (SSDI) for a time, through financial incentives.	Mandatory. Require employers to cover workers in lieu of SSDI for a time.
Employee Premium Contribution	Not specified	Not specified	Up to 40 percent of premium
Employer Payroll Tax Credit	No	Yes	No
Required Period of PDI Benefits	Not specified	2 – 3 years	2 years
Restriction on Applying for SSDI	No. Individuals can receive SSDI and PDI concurrently.	Yes, for 2-3 years. Except if denied PDI benefits.	Yes, for 2 years. Except for workers with severe disabilities.
Estimated SSDI Savings	The authors estimate \$5 - \$7 billion federal savings over 10 years, but the SSDI and PDI data are not comparable.	The author asserts significant potential savings, but does not provide an estimate.	The authors assert that savings would greatly improve Social Security's financial health and could allow for a lower payroll tax rate or an increase in the longevity of the Disability Insurance Trust Fund, but do not provide an estimate.

Source: GAO analysis of proposals. | GAO-18-248

Note: The term PDI in this table refers to employer-sponsored long-term disability insurance.

⁵⁷ Under this proposal, conditions covered by SSA's list of Compassionate Allowance Conditions would be eligible for immediate SSDI application at the onset of the disability. According to the authors, the PDI policy should not shoulder claims costs except during the relatively brief Compassionate Allowance determination period.

Many Unknowns Make An Assessment of the Potential for SSDI Savings Uncertain

Differences in Covered Populations

Existing differences in the SSDI and PDI covered populations may play a role in determining the potential impacts of expanding PDI. As previously noted, SSDI covers almost all workers, whereas PDI coverage tended to be for those with higher wages and was more prevalent in certain industries. Based on our review of BLS data, in order to expand significantly, PDI would need to cover more lower-wage workers and other occupations and industries where it is currently less common, such as in retail and construction. However, as indicated in the Autor and Duggan proposal, expanding PDI to workers currently not covered could affect PDI premiums, based on the type of industry and wage levels. According to various stakeholder groups we interviewed, changes in PDI premiums would, in turn, have implications for the attractiveness of PDI to employers and employees under voluntary proposals.

The overlap in PDI with the SSDI beneficiary population also plays a role in determining any potential impact of expanding PDI. As previously noted, one industry survey reported that 72 percent of PDI beneficiaries of its member companies also received SSDI. One insurer told us that the longer PDI beneficiaries remain on PDI, the more likely they will also receive SSDI. In fact, for beneficiaries on PDI for 2 years, 58 percent also get SSDI benefits; and for beneficiaries on PDI for more than 5 years, more than 90 percent also receive SSDI.⁵⁸ Our review of these data suggests that for those receiving both SSDI and PDI benefits, it may be difficult to attribute return to work and other changes in circumstances, such as changes in health, to either PDI or SSDI. For example, it is possible that any differences in return-to-work outcomes for SSDI beneficiaries who receive PDI versus those who do not may have more to

⁵⁸ This increasing percentage of PDI beneficiaries also receiving SSDI may be attributable, in part, to the convergence of the SSDI and PDI disability definitions over time. Workers covered by PDI can be approved for benefits even if they are expected to recover from their disability within 12 months, whereas SSDI requires that a disability be expected to last at least 12 months to qualify for benefits. Also, PDI policies may provide coverage for up to 2 years if someone is not able to continue to work in their current occupation based on a disability, whereas someone cannot qualify for SSDI unless the individual is unable to work in any job in the national economy.

do with the specific characteristics and circumstances of the beneficiaries than as a result of having PDI coverage.⁵⁹

Types and Timing of Return-to-Work Assistance Offered

To achieve SSDI cost savings, the three proposals assume that insurers will provide or reimburse employers for providing vocational rehabilitation, workplace accommodation, and return-to-work services, but the proposals provide few, if any details about how this would occur. For example, the two proposals that describe voluntary PDI enrollment do not explicitly require that such services be provided through PDI.⁶⁰ The Autor and Duggan proposal, which includes a mandate for enrollment, requires that PDI provide workplace accommodations consistent with the Americans with Disabilities Act (ADA) and vocational rehabilitation services. The proposal includes a list of vocational rehabilitation services that insurers could provide, but the authors acknowledge that in practice it is not always “clear-cut” when a “reasonable accommodation” under the ADA is required and what the accommodation should be.⁶¹ As noted previously, we were unable to find public data on the extent to which PDI policies currently provide such services and insurance representatives and researchers we contacted that collect and report PDI data said that they do not collect such data from insurance companies. According to our review of PDI policy provisions that allow for rehabilitation and workplace accommodation services, the decision of what assistance will be provided through the PDI policy, if any, and the extent of such assistance the insurer provides or helps the employer provide, is at the discretion of the

⁵⁹ Researchers have highlighted various factors that may affect individuals’ return to work. Such factors include the motivation of the individual and his or her job satisfaction, as well as if there are potential obstacles to employment, such as individuals lacking transferable skills, having less than a high school education, living in poverty, or lacking reliable transportation.

⁶⁰ Babbel and Meyer stated that their proposal assumes it is in the economic interests of the insurers and employers to provide such assistance and that affected individuals desire to go back to work.

⁶¹ The Autor and Duggan proposal states that its proposed PDI coverage “would not extend” the Americans with Disabilities Act (ADA) employer “mandate,” but that it would simply require that employers pay ADA compliance costs prospectively through the insurance policy rather than on a one-off basis. The authors indicate that a pilot project would inform what types of case management, vocational rehabilitation, and workplace accommodation supports are most effective in assisting workers with disabilities to remain in employment. In addition, the proposal, published in 2010, also expected that medical costs would be paid by health insurance, which at the time was expected to become available to more people as a result of the Patient Protection and Affordable Care Act.

insurer.⁶² It is also possible that insurers would make less of an investment in return-to-work services for PDI beneficiaries under the two time-limited proposals because the insurers are only responsible for 2 to 3 years of disability payments, compared to traditional PDI policies where the employer may have financial responsibility to make payments to beneficiaries until they reach retirement age, unless insurers can help them return to work.

Several stakeholders said that additional uncertainty exists with respect to effectiveness or attractiveness of PDI expansion proposals for populations currently not covered by PDI, such as low-wage workers and those with physically demanding jobs. BLS data show that PDI is currently less prevalent among these workers, and therefore less is known about the type and effectiveness of return-to-work services that would be offered to them under PDI expansion.⁶³ For example, researchers report that lower-wage workers may have jobs that offer limited opportunities to adjust work schedules—a flexibility that one research group said could assist workers in the case of disability. In addition, researchers stated that lower paying jobs tend to not offer sick leave and other key benefits, and the absence of such benefits may present another potential obstacle for successful rehabilitation and workplace accommodation efforts. According to various stakeholder groups we interviewed, employers in low-paying industries or who otherwise do not offer these benefits would have less of an incentive to offer PDI or other supports to help retain their workers compared to employers who compete for skilled employees that are also typically more

⁶² As noted previously, one policy we reviewed stated that benefits may end if an employee is capable of participating in a rehabilitation program recommended by the insurer but fails to participate. However, according to an insurance association representative we spoke with, PDI policies commonly include reasonable accommodation and rehabilitation services provisions, but insurers select very carefully for whom and when such services are appropriate.

⁶³ According to a Mathematica study, private insurers and others have developed proprietary tools and services to target the right services to the right workers at the right time and support progress monitoring and service adjustment. However, this study also notes that evidence from studies involving workers with PDI may not pertain to likely SSDI entrants, because PDI workers tend to have more human capital and work for larger employers. It further noted that only a minority of those individuals at risk of entering the SSDI rolls are likely to be helped by early intervention services. The study emphasized the importance—as well as difficulty—of targeting individuals that share three characteristics: limited access to evidence-based early intervention (EBEI), likely to exit the labor force and enter SSDI rolls without EBEI, and likely to stay in the labor force if given EBEI. Mathematica Center for Studying Disability Policy, *Targeting Early Intervention to Workers Who Need Help to Stay in the Labor Force* (Washington, D.C.: October 2015).

difficult to replace.⁶⁴ These factors—in combination with previously discussed unknowns related to the cost of PDI in non-traditional sectors—reflect complexity and uncertainty about the extent to which PDI may be expanded through a voluntary system.

The proposals assert that expanded PDI would provide financial support, accommodations, and rehabilitation services much sooner than SSDI. However, based on our review, it is not clear if this would happen for two of the proposals. As previously noted, the SSDI elimination period is 5 months, after which SSDI beneficiaries become eligible for return-to-work assistance through the TTW program and financial incentives, but lengthy SSA decision times may significantly delay when individuals receive return-to-work supports.⁶⁵ The Autor and Duggan mandatory proposal has PDI benefits commencing within 3 months of disability onset, which is sooner than SSDI, and therefore, depending on the circumstances, may allow for the provision of return-to-work services sooner than under SSDI. The Babbel and Meyer and Greszler voluntary proposals do not specify the length of elimination periods.⁶⁶ While the Babbel and Meyer and Greszler proposals indicate PDI will provide return-to-work services sooner than SSDI, it is unclear whether or how the timing of return-to-work services might evolve under the two voluntary proposals. Moreover, while data exist on SSDI initial and appeal decision times, we were unable to find current industry-wide data on the average decision period for PDI, or on the extent of appeals and how long on average these take to decide.⁶⁷

⁶⁴ BLS data and an insurance company also indicated that the size of the employer's workforce affects the likelihood of an employer offering PDI. According to BLS, for employees that work for employers with less than 100 employees, 24 percent of employees are provided access to PDI, whereas for employees who work for employers with more than 500 employees, 54 percent of employees are provided access. This would suggest that efforts to expand PDI may also need to consider characteristics and needs of smaller employers as well.

⁶⁵ As noted previously, SSA took an average of 111 days to make initial decisions in fiscal year 2017 and, for claims that were appealed to an Administrative Law Judge, the decision time in fiscal year 2017 was an average of 605 days.

⁶⁶ Babbel and Meyer assumed that short-term disability benefits would bridge any time between a disabling incident and the commencement of long-term disability benefits.

⁶⁷ A thorough comparison of decision times should compare similar cases, including complexity and other characteristics of the claims. Also, although both SSDI- and PDI-denied claimants can appeal and can file lawsuits, the processes and standards of review can differ between SSDI and PDI.

Other Factors That Could Affect PDI Enrollment and SSDI Cost Savings

Based on our review of the PDI expansion proposals and interviews with stakeholder groups, we identified several additional factors that could affect the extent to which the PDI proposals could increase PDI coverage and result in SSDI cost savings, especially under the two voluntary proposals (Babbel and Meyer and Greszler). Such factors include the likelihood that efforts to encourage PDI enrollment might be successful, the effect of policy premiums and tax credits on employers' willingness to offer PDI policies, and whether expanded PDI might lead to more people also going on to SSDI.

Babbel and Meyer asserted that congressional action and federal outreach would clarify for employers that automatic enrollment with opt-out arrangements is legally permissible and thereby result in voluntary PDI expansion.⁶⁸ According to the authors, their approach was motivated by the success of similar automatic enrollment provisions in the Pension Protection Act of 2006 in raising the participation and savings rates in 401(k) defined contribution savings programs. However, since PDI automatic enrollment is already available, it is not clear how their proposal for congressional action and federal outreach would result in more employers adopting it and employees participating.⁶⁹ The Babbel and Meyer proposal is also based on requiring employees to pay part or all of the insurance premiums. According to employee advocacy groups, workers at the lowest end of the wage spectrum in particular may have little, if any, disposable income to pay for PDI, and also little incentive to

⁶⁸ According to Babbel and Meyer, the confusion stems from state laws that require employers to have an employee's consent before automatically withholding contributions from wages. However, a 2008 Advisory Opinion from the Department of Labor (DOL) expressed DOL's view that such a state law was preempted by ERISA to the extent it was interpreted to limit, prohibit, or regulate deductions from wages for contributions to ERISA-covered plans. See DOL Advisory Opinion 2008-02A, Feb. 8, 2008. A 2012 ERISA Advisory Council report recommended that DOL issue guidance for plan sponsors and plan administrators on the permissibility of auto-enrollment for employee contributory PDI plans. Even though the Council stated that automatic enrollment processes are permitted under current law and regulatory guidance issued by DOL, the Council concluded that such knowledge is not widespread or widely understood. See, *2012 ERISA Advisory Council Report: Managing Disability Risks in an Environment of Individual Responsibility*, December 2012.

⁶⁹ An insurance association indicated that this might increase enrollment as was the case for 401(k) participation from automatic enrollment after the enactment of the Pension Protection Act of 2006, while we heard from an insurer discussion group that employees would opt out of PDI at a higher rate than they have with 401(k)s. Three employee advocacy groups said that the 401(k) experience is not comparable, since it is a savings plan, not a benefit expense, as is a disability insurance premium. Also, an employee advocacy group said that auto-enrollment in 401(k) participation has not increased overall participation in retirement savings plans.

participate when SSDI already replaces a relatively high proportion of their wages.⁷⁰ Further, in an employer discussion session we heard that employees willing to contribute in part or the entire premium may also have a greater risk of needing PDI benefits, and adverse selection could result in higher premiums, which in turn, fewer workers may be willing to pay.⁷¹

The Greszler proposal anticipates potential significant savings for SSDI assuming that employers who had not previously offered PDI to their employees would opt to offer PDI in exchange for a payroll tax credit. According to an employer association, in making this choice, employers would need to compare the financial benefit of a payroll tax credit with the cost of PDI premiums, among other things—which may evolve under the proposal, according to insurers in a discussion group we held. According to insurance industry representatives, the direction of possible premium changes under the Greszler proposal is unclear because the proposal reduces employers' financial responsibility to 2 to 3 years of potential disability benefit costs. This shorter benefit period could reduce premiums typical for longer term policies. However, since persons would not generally be able to receive SSDI benefits during this period under the proposal, there would be no offset of SSDI benefits against PDI benefits (as discussed earlier). According to an industry association and an

⁷⁰ However, some workers may not qualify for SSDI benefits, such as those who have not worked long enough. Also, workers with PDI may receive other services in addition to the PDI cash benefit.

⁷¹ The State of Maine and other efforts may provide insight regarding the efficacy of voluntary PDI enrollment. The State of Maine passed a law effective January 1, 2017, that allows employers to automatically enroll employees in an employee-sponsored group disability income protection plan paid for at least in part by employee premiums that allows employees to opt-out of coverage. Employers can receive a \$30 tax credit for each of 3 tax years for each employee newly enrolled in such a plan. See Me. Rev. Stat. tit. 24-A, § 2804-B and Me. Rev. Stat. tit. 36, § 5219-OO (2017). Also, the National Conference of Insurance Legislators adopted a model act in November 2016 for Employer-Sponsored Group Disability Income Protection for states to consider. The model act would provide employers a credit against their annual state income tax liability in an amount equal to 25 percent of the costs of establishing and administering a group disability plan for employees, for each of 3 years. Employers would also receive a state tax credit of \$100 for each employee newly enrolled in a group disability income plan, of not more than \$10,000 in any year.

insurer discussion group we held, the absence of the SSDI offset could increase premiums, possibly substantially.⁷²

Another consideration raised by SSA officials is whether PDI expansion would increase SSDI applications and benefits paid, which would reduce potential SSDI savings from the proposals and could increase the cost of the SSDI program. Typical PDI policies may effectively require PDI beneficiaries to apply for SSDI, and PDI insurers may assist beneficiaries with SSDI applications.⁷³ Insurance association representatives told us that in addition to helping keep PDI premiums attractively low,⁷⁴ such practices benefit those who become eligible for SSDI benefits by providing health care benefits that they might not otherwise be able to access.⁷⁵ One insurance association further noted that by helping PDI beneficiaries complete SSDI applications, SSA may receive well-supported applications that are more efficient to process. On the other hand, researchers and SSA officials indicated that such PDI practices may result in some individuals applying for and receiving SSDI who would not have otherwise done so.

Cost Saving Estimates Are Unreliable or Unsupported

Each proposal states that expanding PDI would reduce SSDI costs. The proposals indicate that this would be achieved mainly through PDI early intervention after employees' onset of disabilities and a resulting reduction in the number of SSDI claimants or duration of SSDI

⁷² In comparing the cost of SSDI and PDI, Greszler asserts that PDI would likely increase premiums by 111 percent, absent the SSDI offset that reduces the PDI benefit by the amount of the SSDI benefit for individuals receiving both benefits. According to Greszler, this premium increase was calculated for PDI providing permanent benefits and not benefits for 2 to 3 years as she proposes. ACLI has estimated that without a SSDI offset, premium costs may become so prohibitive that the employer and/or employee could not afford PDI coverage. ACLI has reported estimates of 40 percent to 100 percent increases in premiums if SSDI offsets were eliminated in group policies, with the increase depending on the demographics of the specific group. In two insurer discussion groups we heard that without the SSDI offset, PDI premiums would "skyrocket" and could be three times as high.

⁷³ While some PDI policies might not explicitly require someone who is receiving PDI to apply for SSDI, policies may allow the insurer to reduce the PDI benefit by the amount that the insurer estimates the individual could have received from SSDI if they did apply, thereby creating a potentially significant financial incentive for the PDI beneficiary to apply for SSDI.

⁷⁴ The proposals we reviewed, published from 2010 to 2016, cited PDI premiums ranging from around \$250 to \$400 per covered employee, per year.

⁷⁵ As noted previously, SSDI beneficiaries have access to Medicare after 2 years.

beneficiaries' status. Only the Babbel and Meyer proposal developed an estimate of potential savings. In forecasting SSDI savings,

- *The Babbel and Meyer* proposal estimated cost savings by assuming that automatic enrollment would result in PDI coverage increasing from 33 percent to just over 50 percent of private sector employees. Comparing PDI disability termination rates from the Society of Actuaries⁷⁶ with SSDI termination rates, Babbel and Meyer estimated that PDI expansion would save the federal government an additional \$500 million to \$700 million per year, with a 10-year cumulative savings of \$5 billion to \$7 billion. They said that because they were unable to conduct a rigorous and comprehensive study of disability, recovery, and reemployment, their proposal “quantifies the benefits of group disability insurance indirectly, using publicly available data that are sparse, aggregated, and often difficult to interpret.”⁷⁷
- *The Greszler* proposal relied on the Babbel and Meyer analysis in concluding that there would be significant SSDI savings. According to Greszler, early intervention would keep individuals on the job and reduce the number of potential SSDI beneficiaries. Further, Greszler assumes that the loss of tax revenue from the proposed payroll tax credit would be made up by lower SSDI expenditures incurred during the 2 – 3 years that employees are covered by PDI instead of SSDI.

⁷⁶ The Society of Actuaries (SOA) is an actuarial professional organization. SOA periodically analyzes and publishes data on group long term disability experience using claims data that it obtains from insurance companies.

⁷⁷ Babbel and Meyer, *Expanding Private Disability Insurance*. The authors noted the absence of studies comparing SSDI and PDI outcomes and the difficulty in conducting a rigorous evaluation of cost savings. Therefore, Babbel and Meyer developed their cost estimate by first estimating how many people would avoid SSDI because of PDI and then used the average annual SSDI worker benefit (\$13,757) to compute the savings. To determine SSDI avoidance due to PDI, Babbel and Meyer compared rates for “SSDI Aggregate Termination for Work” with “Group Disability Insured Recovery,” (see table 2, Babbel and Meyer, *Expanding Private Disability Insurance*). The Babbel and Meyer analysis of recovery rates has also been used as a basis for estimating savings to states from PDI, see Mark F. Meyer and David F. Babbel, Charles River Associates, *The Benefits of Private Disability Income Protection Coverage to State Budgets: Overview and Details for Four States* (July 2015).

However, the Greszler proposal did not quantify the magnitude of the tax credit or the overall savings to SSDI.⁷⁸

- *The Autor and Dugan* proposal noted that SSDI expenditures would be lower because mandated PDI policies would pay the first 2 years of benefits, instead of SSDI. The authors also noted that, over the longer-term, 2-year mandated PDI for employees has the potential to pay for itself and generate SSDI savings if the proposed mandate succeeds in allowing 1 in 11 would-be SSDI beneficiaries to remain gainfully employed. However, Autor and Duggan's proposal did not include an explanation of how, or data or evidence supporting that, the proposed PDI mandate would achieve employment for 1 in 11 would-be SSDI beneficiaries.

Our analysis of the Babbel and Meyer proposal found that the available data used to develop the SSDI cost savings estimates due to PDI expansion were not comparable and therefore did not result in a reliable estimate of the financial impact of current or expanded PDI on SSDI. In their proposal, Babbel and Meyer estimated cost savings by comparing SSDI's and PDI's recovery rates. For SSDI, Babbel and Meyer used an SSDI work termination rate that includes the number of SSDI beneficiaries terminated during the year due to having earnings that exceeded the substantial gainful activity amount, divided by the total number of SSDI beneficiaries during the year. For PDI, Babbel and Meyer used a PDI recovery rate that includes the number of PDI benefit awards terminated during the year for multiple reasons, divided by the cumulative number of months all PDI benefits were received by PDI beneficiaries who received PDI benefits during the year.⁷⁹

However, we found that the numerators and denominators used to compare SSDI and PDI recovery rates are not comparable. For example, the PDI numerator reflects a much broader definition of recovery than the SSDI numerator, which may contribute to overestimating PDI's relative recovery rate. Specifically, the SSDI numerator is limited to those

⁷⁸ When we spoke to the author, she told us that in aggregate, the tax credit should offset what the SSDI costs would have otherwise been during the period. She indicated that to achieve this for a 3-year period, the tax credit might reduce the SSDI share of the employer payroll tax by 0.35 percent, from 0.9 percent to 0.55 percent. However, she did not provide supporting data or evidence to us for these estimates.

⁷⁹ The denominator only includes months of PDI benefits received during the period of the experience study for which the recovery rates are being computed. It does not include months of benefits received by PDI beneficiaries in prior years who continued to receive benefits during the period of the experience study.

terminated from SSDI for earnings exceeding SGA, whereas the PDI numerator includes terminations for reasons besides return to work, such as medical improvement (even if an individual did not return to work), failure to submit required documents to continue receiving benefits, changes in coverage from inability to perform own occupation to any occupation coverage, and other non-specified terminations. The denominator used in the comparison also differs. For SSDI, it is the number of people receiving SSDI benefits during the year. For PDI, it is the cumulative number of months of all PDI benefits that were received by PDI beneficiaries who received PDI benefits during the year. Because the denominators are different, we were unable to determine whether they contributed to an under- or overestimate of PDI's relative recovery rate. Regardless, we determined that the non-comparable rates in Babbel and Meyer's proposal affect the reliability of its cost savings estimate.⁸⁰ SSA's Office of the Chief Actuary also reviewed the proposal at our request and concluded that the SSDI and PDI termination rates shown in the proposal were comparable neither in concept nor in unit of analysis. Even with common units of analysis in SSDI and PDI termination rates, estimates of the impact of PDI on SSDI would also need to consider the other differences that we described above, such as differences in covered populations.

Authors Suggested Proposals Be Pilot Tested

The authors of two proposals we spoke to suggested that any proposal to expand PDI should be pilot tested before being implemented nationwide due to the number and complexity of factors involved and their potential effect on SSDI. For example, in their proposal, Autor and Duggan noted that, given the inevitable challenges and uncertainties associated with rolling out a major program innovation, it would be desirable to phase in such a plan and to run pilot programs in a limited number of states.⁸¹ They also suggested that pilot programs could be targeted, such as to larger firms. In discussing the Greszler proposal with the author, she told us that a pilot test of her proposal might help show if the program works

⁸⁰ In the Babbel and Meyer estimate of SSDI cost savings, they used this comparison of SSDI and PDI recovery rates to estimate the number of individuals receiving PDI who they believe would have received SSDI had they not received PDI benefits. The authors applied their recovery rate analysis to data from an industry survey that reported the percentage of individuals receiving PDI but not SSDI, and data from yet another source, on annual PDI claims and terminations.

⁸¹ In discussing the Autor and Duggan proposal with the authors, they told us that their proposal assumed that people covered by PDI would also have access to health insurance. They said that without health insurance, PDI would be less effective under their proposal.

better in some industries or occupations than others, as well as determine how employers respond to the tax incentive and if employees feel they are treated fairly by private insurers.⁸²

Similarly, we have previously reported that changes affecting the SSDI program may raise particular implementation challenges, given the program's inherent complexity; any changes may require pilot testing to evaluate the potential effects or unintended consequences that the Congress, the administration, SSA, and the broader public will need to know to make an informed decision about whether to implement program changes nationwide.⁸³ SSA and DOL have funded and overseen pilot programs to test other proposals to help individuals with disabilities participate in the workforce.⁸⁴

Missing Details Make Identifying the Implications of the Proposals for Stakeholders Uncertain

Employee advocacy groups,⁸⁵ employers, and insurance companies we spoke with raised various questions and concerns about the potential impacts of expanding PDI—implications that the proposals did not explicitly or fully address and therefore remain uncertain. The proposals also provided few details on any oversight role that would be needed by federal or state governments.

⁸² For a similar proposal, by authors Jason Seligman and Jason Fichtner, they recommended that their proposal be piloted in a few select states. Unlike the other proposals we reviewed, Seligman and Fichtner propose that SSDI benefits be temporary and that SSDI provide partial disability awards, as well as giving employers an expanded role in providing disability insurance in exchange for tax incentives. See *SSDI Solutions: Ideas To Strengthen the Social Security Disability Insurance Program*, by Jim McCrery and Earl Pomeroy (Infinity Publishing, West Conshohocken, PA, March 2016), chapter 13. *Beyond All Or Nothing: Reforming Social Security Disability Insurance To Encourage Work and Wealth*, Jason J. Fichtner and Jason S. Seligman. We did not include this proposal in our review.

⁸³ GAO, *Social Security's Future: Answers to Key Questions*, [GAO-16-75SP](#) (Washington, D.C.: October 2015).

⁸⁴ The Consolidated and Further Continuing Appropriations Act of 2015 appropriated funds to SSA to design, develop, and implement an early intervention demonstration to test innovative strategies aimed at helping people with disabilities remain in the workforce. SSA is currently conducting a Supported Employment Demonstration to provide employment and health support to recently denied applicants alleging mental impairments. It is also exploring a demonstration project on how to best support individuals with musculoskeletal disabilities early. DOL is in the process of implementing pilots to test return-to-work strategies for people with disabilities.

⁸⁵ We use the term "employee advocacy groups" to include disability advocacy groups, general employee advocacy groups, and unions.

Potential Impacts on Employees

The proposals assert that employees could potentially benefit in the event of a disability from PDI cash benefits that may be higher than SSDI benefits; however this outcome is not certain. Based on our review of SSDI and PDI policies and interviews with employee and advocacy groups, whether or not workers would opt for PDI benefits under voluntary expansion would depend on the attractiveness of PDI relative to SSDI and other benefits. For example, an employee benefits survey and several stakeholder groups we spoke with suggested that employees tend to value other benefits, such as health insurance, more than disability insurance. According to employee groups, lower-wage workers, in particular, may opt-out of PDI under the Babbel and Meyer proposal in favor of paying for other benefits, or forgo benefits entirely, especially if premiums are high. In addition, based on our review, PDI may not provide much additional benefit for lower-wage workers, and employee groups told us that, given a choice, lower-wage workers might choose not to participate in PDI since SSDI benefits replace a relatively high share of their wages.⁸⁶ Based on our review of SSDI and PDI policies, current PDI policies typically do not include dependent and spousal benefits offered by SSDI, and unlike SSDI have exclusions and pre-existing condition provisions, as well as have time limits on benefit payments for some conditions, which may result in workers finding SSDI more attractive than PDI. To the extent that employees see PDI benefits as less attractive than SSDI and their willingness to participate in PDI declines, cost savings to SSDI resulting from voluntary PDI proposals would likely be affected.

Two employee advocacy groups also expressed concern that all three proposals focus on employer-provided PDI, and two of three proposals do not explicitly address self-employed and part-time workers.⁸⁷ As we have previously noted, an increasing number of people are part of the contingent workforce, with limited access to employer-sponsored

⁸⁶ Any workers who were covered by PDI, but who had not yet earned enough work credits for SSDI, would not have their benefits reduced for SSDI under the three policies we reviewed and the Babbel and Meyer proposal.

⁸⁷ In an interview with Mr. Autor and Mr. Duggan they said that their proposed system could provide graduated benefits for part-time workers. Ms. Greszler also said that she would fully support PDI being available to part-time workers through their employers and also allowing self-employed workers to receive the same SSDI tax credits as businesses for purchasing their own qualified PDI policy.

benefits.⁸⁸ Other individuals may have already left the workforce or otherwise be unemployed and thus have no connection to an employer.⁸⁹ Further, two employee advocacy groups explained that individuals who will eventually be unable to work due to a disability initially experience symptoms that may cause them to work part-time or take a different position or job, which may affect their access to PDI through their current or new employer. On the other hand, the proposals allow for persons not covered under the proposals to apply for SSDI.⁹⁰

Two employee advocacy groups also expressed concern that workers who are auto-enrolled under the Babbel and Meyer proposal may not make an informed choice about participating due to the complexity of disability contracts. One employee advocacy group was particularly concerned for low-wage workers who may be struggling financially and cannot afford disability insurance, but do not initially opt-out of coverage because of inertia, language barriers, or not understanding the product, including the tradeoffs involved in choosing to keep it or opt out.⁹¹

Employee advocacy groups told us that more needs to be done to get SSDI beneficiaries back to work, but noted a range of concerns about using PDI to do this. Their concerns included the following:

⁸⁸ Contingent workers can include those that do not have standard work arrangements—permanent jobs with a traditional employer-employee relationship. Rather, they are in temporary, contract, or other forms of non-standard employment arrangements in which they may not receive employer-provided benefits. GAO, *Contingent Workforce: Size, Characteristics, Earnings, and Benefits*, [GAO-15-168R](#) (Washington, D.C.: April 20, 2015).

⁸⁹ The Autor and Duggan proposal would allow unemployed individuals to purchase disability coverage from insurers at no more than 110 percent of the rate paid by the now-unemployed individuals' previous employers. Individuals without PDI coverage that were insured for SSDI would be given access to PDI policies through a market financed by insurer surcharges.

⁹⁰ Even for those covered by the proposals, under each of the proposals, applications for SSDI are still allowed. For example, the Autor and Duggan proposal allows employees with severe disabilities to apply for SSDI. In addition, according to Greszler, under her proposal, employees whose PDI claims are denied could apply for SSDI.

⁹¹ Three employee advocacy groups also pointed out that auto-enrollment for PDI would be less beneficial for the employee than auto-enrollment for retirement, because contributions to the latter belong to the employee. Nevertheless, we have previously reported concerns about low-earning households being able to save for retirement because they feel they cannot afford to make contributions without taking on additional debt or postponing important expenditures, such as preventive healthcare expenses. See GAO, *Retirement Security: Low Defined Contribution Savings May Pose Challenges*, [GAO-16-408](#) (Washington, D.C.: May 5, 2016).

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- Employers are moving away from providing other key employee benefits, such as health care benefits (which may be more important to workers than PDI and without which PDI would be less effective).
 - Employers are moving away from full-time employment (which is usually a stipulation of PDI policies).
 - Employers might discriminate in not hiring individuals at higher risk of disability under proposals that make employers responsible for the first few years of providing disability assistance.
 - The transition from receiving PDI to qualifying and getting approved for SSDI under the proposals might delay receipt of SSDI.⁹²
 - Insurers might not actually provide rehabilitative and accommodation services.
 - There would not be standardization of PDI eligibility determination, coverage, and appeal processes to ensure fair and equitable treatment of workers.

All employee advocacy groups we spoke to emphasized the need for consumer protections and strong oversight under the PDI proposals. One employee advocacy group said that there are too many problems, gaps, and concerns with the proposals to expand PDI, when SSDI already provides near universal coverage and is a system that is up and running. Moreover, the employee advocacy group said that SSA could identify the key reasons that PDI has had success in getting people back to work and incorporate those lessons into SSDI, because more effort needs to be spent improving SSDI and increasing its return-to-work efforts.

Potential Impact on Employers

Individual employers and employer associations we spoke to said that more details would be needed to determine how they might be impacted by the proposals.

- Regarding the Babel and Meyer proposal (which as previously discussed, cites the need for congressional action to address potential legal uncertainties regarding automatic enrollment) one employer association representative expressed concern about whether state garnishment laws would prohibit employers from making automatic

⁹² This would apply to individuals receiving PDI for the 2-3 year periods under the Autor and Dugan and the Greszler proposals.

deductions for PDI premiums from employees' pay without their permission.⁹³

- Regarding the Greszler proposal, employers and representatives of an employer association we spoke to indicated they would need to know more details, such as the exact amount of the tax credits and how insurance premiums might be affected.
- Regarding the Autor and Duggan proposal, representatives of the two employer associations stated that their members would oppose a mandate. One employer association said there are often additional requirements that come along with any mandates, even for actions that employers are already taking, such as offering PDI. The employer association also expressed concern that doing more than is required under any mandate generally exposes employers to liability, which could result in employers providing only the minimum benefits and assistance required by law. One employer said that mandated PDI could crowd out the amount of other benefits an employer is willing to provide, such as the amount of medical coverage that it offers to employees.

In addition, one employer association we spoke with was concerned about the potential administrative burdens associated with expanding PDI, particularly for small employers. They noted that administering any benefit requires financial resources to provide, monitor, and maintain the benefit, stating that once employers provide a benefit to employees, they are generally reluctant to take it away. Employers in one discussion group we held were also concerned that providing disability assistance through a PDI policy for 2 to 3 years under two of the proposals would require that they retain employees and provide benefits even when employees are unable to continue work.⁹⁴ Employers in a discussion group and an employer association we spoke to also wanted to know how the PDI

⁹³ We have previously reported that although automatic enrollment for retirement savings had been addressed and clarified by IRS as permissible, there were still concerns among employers about state laws that prohibit withholding employee pay without employee consent, until that passage of the Pension Protection Act of 2006 (PPA). PPA provisions and subsequent regulations further facilitated the adoption of automatic enrollment by providing incentives to do so and by protecting plans from fiduciary and legal liability if certain conditions were met. See, GAO, *Retirement Savings: Automatic Enrollment Shows Promise for Some Workers, but Proposals to Broaden Retirement Savings for Other Workers Could Face Challenges*, [GAO-10-31](#) (Washington D.C.: October 23, 2009).

⁹⁴ According to one insurance company, employers generally do not retain employees for more than 1 year when employees cannot work due to a disability.

plans would be overseen at the state and federal levels under the proposals, and what additional requirements that would entail.

Potential Impact on Insurance Companies

Insurance companies and associations we spoke to generally supported efforts to expand PDI, but also expressed some concerns about related unknowns. In particular, insurers in one of our discussion groups and both insurance associations we spoke with supported the Babbel and Meyer proposal to encourage employers to automatically enroll employees, with an opt-out provision, which came out of a study funded by America's Health Insurance Plans (AHIP) and the American Council of Life Insurers (ACLI). One insurance association said that, relative to the other proposals that provide a tax credit or mandate coverage, the Babbel and Meyer proposal to expand PDI would not be a problem for insurers' capacity. Representatives from this insurance association suggested first taking initial steps proposed by Babbel and Meyer through encouraging automatic enrollment before considering a more major restructuring of PDI that would supplant SSDI for 2 to 3 years. On the other hand, two insurance associations expressed concerns about the potential for additional requirements that could result from implementing the Babbel and Meyer proposal, for example in relation to employee consent or the quality of coverage offered.

Insurance associations and insurers we spoke with also raised concerns about the other two proposals (Autor and Duggan, and Greszler), especially related to how they would fundamentally and unpredictably change the PDI market. On the one hand, one insurance association pointed out that these proposals would eliminate the SSDI offset from PDI payments for the 2 to 3 year period, which could lead insurance companies to significantly increase PDI premiums for such policies. On the other hand, if the insurance company is only liable for 2-3 years of benefit payments and services, this could reduce insurers' costs.

In addition, in one insurer discussion group that we held, insurers said that if there was not an SSDI offset of PDI benefits during the 2 to 3 year period, the industry would be more aggressive about return to work efforts. However, in another insurer discussion group we heard that they would do less for return to work under such policies, because future savings to the insurance company are not as great under a 2 to 3 year policy as if the insurance company is liable for paying benefits until an individual reaches normal SSA retirement age, as with current policies. Finally, representatives from one insurance association said that the Greszler and Autor and Duggan proposed PDI expansions would create

Potential Impact on Federal and State Governments Oversight

extreme capacity problems for insurers. Under the Autor and Duggan proposal nearly all employees would need to be covered.

One insurance association also noted its view that SSDI might benefit under the proposals to expand PDI. Specifically, the insurance association said that after someone goes through the PDI claim process, a subsequent claim for SSDI may be of higher quality, potentially reducing the administrative costs of a subsequent SSDI determination.⁹⁵

The three proposals we reviewed did not specify the government's role in overseeing the expanded PDI market. Babbel and Meyer proposed a stronger federal role in encouraging automatic enrollment by passing a law to clarify its permissibility, but the proposal did not provide details on implementation and oversight.⁹⁶ Greszler proposed that participating employers provide benefits at least equivalent to SSDI benefits, but provided no other details on how compliance would be overseen. Neither the Autor and Duggan nor the Greszler proposals addressed whether individuals denied PDI could apply for SSDI within the 2 to 3 year period covered by their proposals.⁹⁷

Stakeholders we spoke to expressed divergent perspectives on whether federal and state governments would need to provide additional regulation, supervision, and/or oversight related to expanded PDI markets.⁹⁸ One insurance association said that insurance providers are already very well regulated by ERISA and by states, and a major insurer said that there already exists an array of federal and state laws governing employer-sponsored PDI coverage that establishes a robust regulatory framework for protecting participants. In contrast, representatives from all employee advocacy groups we spoke with cited problems identified with

⁹⁵ The Greszler proposal specifically states that evidence and findings from the private determination potentially could be used in the public determination process.

⁹⁶ Babbel and Meyer said that there are minimal implementation requirements and costs for their proposal because it only requires the passage of legislation allowing for automatic enrollment. They said that the benefits of their proposal are independent of, and in addition to, other SSDI program specific proposals.

⁹⁷ Greszler told us that those individuals denied benefits through PDI could still apply to SSDI and because the PDI determination process usually takes less than 60 days, they would not be far behind in the SSDI process.

⁹⁸ According to these stakeholders, areas where regulation, supervision, or oversight might apply include acceptable contracts and premium levels, and penalties for non-compliance.

private insurance company practices and stressed the need for additional consumer protections and government oversight. We found instances of federal and state enforcement actions regarding disability insurance improper practices in the past potentially affecting hundreds of thousands of people over many years,⁹⁹ as well as more recent rulemaking by DOL that said that “disability cases dominate the ERISA litigation landscape.” These actions suggest that expanding PDI or including new PDI requirements, in lieu of SSDI, would likely involve some degree of additional federal and state oversight.¹⁰⁰

Any costs associated with expanded state and federal roles would reduce potential cost savings from the proposals, although the extent to which this might affect the Disability Insurance Trust Fund is unclear. According to DOL officials, an expansion in the number of private disability benefit plans and an increase in the complexity in the legal requirements governing the design and operation of such plans would require DOL to

⁹⁹ For example, in 2004, the insurance regulators for all 50 states, the District of Columbia, and American Samoa and the U.S. Department of Labor entered into settlement agreements with three UnumProvident companies requiring them to change their claims practice and to reassess certain claims going back to 1997. The settlement indicated that it could include the re-assessment of approximately 200,000 claims. The multi-state examination and DOL investigation that lead to the settlement identified several areas of concern pertaining to insurer practices for handling claims, including excessive reliance on in-house medical staff to support the denial, termination, or reduction of benefits; unfair evaluation and interpretation of attending physician or independent medical examiner reports; failure to evaluate the totality of the claimant’s medical condition including co-morbid conditions; an inappropriate burden placed on claimants to justify eligibility for benefits; and a failure to give weight to Social Security determinations of disability. The companies were required to pay a \$15 million fine and comprehensively revise their operations. According to the subsequent 2008 report of the Multi-State Conduct Examination, an additional \$676.2 million was paid by the companies to claimants immediately upon reassessment or was reserved for future payments.

¹⁰⁰ In December 2016, DOL issued a final rule on claims procedures for plans providing disability benefits, explaining why it thought it was appropriate to re-examine the rules governing ERISA-covered disability benefit claims. “Even though fewer private-sector employees participate in disability plans than in group health and other types of plans, disability cases dominate the ERISA litigation landscape today. An empirical study of ERISA employee benefits litigation from 2006 to 2010 concluded that cases involving long-term disability claims accounted for 64.5 percent of benefits litigation, whereas lawsuits involving health care plans and pension plans accounted for only 14.4 percent and 9.3 percent respectively. Insurers and plans looking to contain disability costs may be motivated to aggressively dispute disability claims.” Claims Procedure for Plans Providing Disability Benefits, 81 Fed. Reg. 92316 (Dec. 19, 2016). On November 29, 2017, DOL published a final rule delaying the applicability date of the 2016 final rule for 90 days, until April 1, 2018. Claims Procedure for Plans Providing Disability Benefits; 90-Day Delay of Applicability Date, 82 Fed. Reg. 56560 (Nov. 29, 2017).

provide proportionally more interpretive guidance, compliance assistance, and enforcement and oversight activities. Estimating the potential impact of the proposals on DOL's functions and capabilities would require more specific information on the statutory and regulatory changes envisioned by the proposals and the likely impact of those changes on the private disability plan marketplace. SSA officials said that whether or not SSA would experience an expanded role would depend on any changes in law regarding the proposals.

Agency Comments

We provided a draft of this report for review and comment to SSA and DOL. Neither SSA nor DOL provided written comments, although both provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Commissioner of Social Security, Secretary of Labor, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions about this report, please contact me at (202) 512-7215 or curdae@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix I.



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Appendix I: GAO Contact and Staff Acknowledgments

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In addition to the individual named above, key contributors to this report included Michele Grgich (Assistant Director), Dan Meyer (Analyst-in-Charge), Lucas Alvarez, and Seyda Wentworth. Other contributors include: James Bennett, Ramona Burton, Holly Dye, Sarah Gilliland, Emei Li, Dan Meyer, Carol Petersen, Monica Savoy, Almeta Spencer, and Adam Wendel.

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