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# Concurrent Receipt of Social Security Disability Insurance (SSDI) and Unemployment Insurance (UI): Background and Legislative Proposals in the 113th Congress

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# Concurrent Receipt of Social Security Disability Insurance (SSDI) and Unemployment Insurance (UI): Background and Legislative Proposals in the 113th Congress

## **Abstract**

[Excerpt] Although Social Security Disability Insurance (SSDI) and Unemployment Insurance (UI) both provide income support to eligible individuals, the two programs serve largely separate populations. SSDI provides monthly cash benefits to statutorily disabled individuals who worked in jobs covered by Social Security and to their dependents. UI, on the other hand, provides temporary cash assistance to involuntarily unemployed workers who meet the requirements of state law. Under certain circumstances, however, some individuals may be concurrently (simultaneously) eligible for benefits under both programs.

Numerous proposals have been introduced in the 113th Congress to prevent or offset concurrent receipt of SSDI and UI benefits. Proponents of these bills contend that concurrent receipt of SSDI and UI benefits is “double dipping” or duplicative, inasmuch as each payment serves the same function of replacing lost earnings. Opponents, however, argue that dual receipt of UI and SSDI benefits is consistent and appropriate under law, because the SSDI program actively encourages beneficiaries to return to work through various work incentives.

This report provides background on SSDI and UI and explains how individuals may be eligible for both programs at the same time. It also summarizes the competing arguments for and against concurrent eligibility and examines many of the legislative proposals formally introduced in the 113th Congress to eliminate or reduce concurrent receipt of SSDI and UI benefits.

## **Keywords**

Social Security Disability Insurance, SSDI, Unemployment Insurance, UI, concurrent eligibility, Congress

## **Comments**

### **Suggested Citation**

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# Concurrent Receipt of Social Security Disability Insurance (SSDI) and Unemployment Insurance (UI): Background and Legislative Proposals in the 113<sup>th</sup> Congress

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## Summary

Social Security Disability Insurance (SSDI) and Unemployment Insurance (UI) are forms of social insurance that provide protection against the risk of economic loss due to specific adverse events. SSDI insures against the risk of lost earnings due to a severe disability by providing monthly cash benefits to statutorily disabled workers who are unable to engage in *substantial gainful activity* (SGA) and to their dependents. UI, on the other hand, protects against the risk of lost earnings due to unemployment by providing temporary cash assistance to involuntarily unemployed workers who meet the requirements of state law. Although the two programs serve largely separate populations, under certain circumstances, some individuals may be concurrently (simultaneously) eligible for SSDI and UI.

In July 2012, the Government Accountability Office (GAO) released a report that examined the issue of overlapping SSDI and UI benefits. GAO found that 117,000 individuals received concurrent cash benefit payments from the SSDI and UI programs in fiscal year (FY) 2010 of more than \$850 million. These individuals represented less than 1% of the total beneficiaries in both programs, and the cash benefits they received in FY2010 totaled 0.2% of SSDI benefit outlays and 0.4% of UI benefit outlays.

During the 113<sup>th</sup> Congress, several bills have been introduced to eliminate or reduce the SSDI benefits of individuals who concurrently receive UI benefits. These proposals take one of three general approaches to offsetting or preventing concurrent receipt of benefits. The first approach treats receipt of UI benefits as engaging in SGA, which would delay receipt of SSDI cash benefits and Medicare for individuals awarded but not yet entitled to SSDI benefits and could lead to a suspension of SSDI cash benefits for individuals already entitled to SSDI. The second approach suspends SSDI cash benefits for any month in which an individual receives UI benefits. The third approach reduces SSDI cash benefits, dollar for dollar, for any month in which an SSDI beneficiary is in receipt of UI benefits.

Proponents of these bills argue that concurrent receipt of SSDI and UI benefits is “double dipping” or duplicative, inasmuch as each payment serves the same function of replacing lost earnings. They also maintain that receipt of one benefit is fundamentally contradictory with the eligibility requirements of the other, in that UI beneficiaries are required to be *able and available for work* (as determined under state law), while SSDI beneficiaries must be generally unable to work due to a severe physical or mental impairment.

Opponents, on the other hand, argue that concurrent receipt of UI and SSDI benefits is consistent and appropriate under law, because the SSDI program actively encourages beneficiaries to return to work through various work incentives. Many opponents also contend that preventing or offsetting concurrent receipt of SSDI and UI benefits discriminates against people with disabilities who have lost their job through no fault of their own.

This report explores the issue of concurrent eligibility for the SSDI and UI programs and examines many of the legislative proposals introduced in the 113<sup>th</sup> Congress to eliminate or reduce concurrent receipt of SSDI and UI.

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## Introduction

Although Social Security Disability Insurance (SSDI) and Unemployment Insurance (UI) both provide income support to eligible individuals, the two programs serve largely separate populations. SSDI provides monthly cash benefits to statutorily disabled individuals who worked in jobs covered by Social Security and to their dependents. UI, on the other hand, provides temporary cash assistance to involuntarily unemployed workers who meet the requirements of state law. Under certain circumstances, however, some individuals may be concurrently (simultaneously) eligible for benefits under both programs.

Numerous proposals have been introduced in the 113<sup>th</sup> Congress to prevent or offset concurrent receipt of SSDI and UI benefits.<sup>1</sup> Proponents of these bills contend that concurrent receipt of SSDI and UI benefits is “double dipping” or duplicative, inasmuch as each payment serves the same function of replacing lost earnings.<sup>2</sup> Opponents, however, argue that dual receipt of UI and SSDI benefits is consistent and appropriate under law, because the SSDI program actively encourages beneficiaries to return to work through various work incentives.<sup>3</sup>

This report provides background on SSDI and UI and explains how individuals may be eligible for both programs at the same time. It also summarizes the competing arguments for and against concurrent eligibility and examines many of the legislative proposals formally introduced in the 113<sup>th</sup> Congress to eliminate or reduce concurrent receipt of SSDI and UI benefits.

## Background

### Social Security Disability Insurance<sup>4</sup>

Enacted in 1956 under Title II of the Social Security Act, the SSDI program is part of the Old-Age, Survivors, and Disability Insurance (OASDI) program administered by the Social Security Administration (SSA). Like Old-Age and Survivors Insurance (OASI), SSDI is a form of social insurance that replaces a portion of an insured worker’s earnings based on the individual’s work history and earnings in covered employment.<sup>5</sup> Specifically, SSDI provides benefits to insured workers under the full retirement age who meet the statutory test of disability and to their dependents. In February 2014, nearly 11.0 million individuals received SSDI benefits, including 8.9 million disabled workers, 153,000 spouses of disabled workers, and 1.9 million children of

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<sup>1</sup> For information on legislative issues in the 113<sup>th</sup> Congress concerning UI, see CRS Report R42936, *Unemployment Insurance: Legislative Issues in the 113<sup>th</sup> Congress*, by Julie M. Whittaker and Katelin P. Isaacs.

<sup>2</sup> See Rep. Sam Johnson, “Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act of 2013,” Extensions of Remarks, *Congressional Record*, daily edition, vol. 159, part 45 (April 11, 2013), p. E432, <http://beta.congress.gov/crec/2013/04/11/CREC-2013-04-11-pt1-PgE432-2.pdf>.

<sup>3</sup> Consortium for Citizens with Disabilities, *Emergency Unemployment Compensation (EUC) Extension: Don't Cut Social Security to Pay For an EUC Extension*, January 12, 2014, [http://www.c-c-d.org/fichiers/DI\\_UI\\_FactSheet-1-12-14.pdf](http://www.c-c-d.org/fichiers/DI_UI_FactSheet-1-12-14.pdf).

<sup>4</sup> For additional information on the SSDI program, see CRS Report RL32279, *Primer on Disability Benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)*, by Umar Moulta-Ali.

<sup>5</sup> For more information on the OASI program, see CRS Report R42035, *Social Security Primer*, by Dawn Nuschler.

disabled workers.<sup>6</sup> SSA's Office of the Chief Actuary estimates that 165 million people will work in Social Security-covered employment in 2014.<sup>7</sup>

## Eligibility

To qualify for SSDI, workers must be (1) insured in the event of disability and (2) statutorily disabled. To achieve insured status, individuals generally must have worked in covered employment about a quarter of their adult lives before they became disabled, and have worked at least 5 of the past 10 years immediately before the onset of disability.<sup>8</sup> In 2013, nearly 150.8 million workers were insured in the event of disability.<sup>9</sup>

To meet the statutory test of disability, an insured worker must be unable to engage in any *substantial gainful activity* (SGA) by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.<sup>10</sup> The monthly SGA earnings limit in 2014 is \$1,070 for non-blind individuals and \$1,800 for statutorily blind individuals.<sup>11</sup> Disability determinations are based on a five-step sequential evaluation process that takes into account a worker's medical records, age, education, and work experience.<sup>12</sup> In general, workers must have a severe impairment that prevents them from doing any kind of work that exists in the national economy.

## Benefits

SSDI beneficiaries are entitled to cash benefits after a five-month waiting period from their disability onset date.<sup>13</sup> Initial cash benefits are based on a worker's past average monthly

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<sup>6</sup> Social Security Administration, *Monthly Statistical Snapshot, February 2014*, March 2014, Table 2, [http://www.ssa.gov/policy/docs/quickfacts/stat\\_snapshot/](http://www.ssa.gov/policy/docs/quickfacts/stat_snapshot/) (hereinafter cited as "SSA Monthly Statistical Snapshot").

<sup>7</sup> Social Security Administration, *Social Security Program Fact Sheet*, February 14, 2014, <http://www.ssa.gov/oact/FACTS/>.

<sup>8</sup> To achieve insured status, workers must accrue quarters of coverage (work credits) based on their earnings from jobs covered by Social Security. In 2014, covered workers earn one quarter of coverage for each \$1,200 in earnings, up to the maximum of four quarters of coverage per year. To be insured in the event of disability, workers must be both fully insured and meet a recency-of-work requirement. To be fully insured, covered workers must have at least one quarter of coverage for each calendar year after they turned 21 years old and before the year they became disabled (about a quarter of their adult lives). To meet the recency-of-work requirement, covered workers must have earned at least 20 quarters of coverage during a 40-calendar quarter period ending with the quarter in which their disability began (at least five years of work in the past 10 years). However, younger workers may meet the recency-of-work requirement with fewer quarters of coverage based on their age. Workers under the age of 31 need quarters of coverage in at least one-half of the quarters during the period between when they attained the age of 21 and when they became disabled (a minimum of six quarters of coverage is required). Statutorily blind workers are exempt from the recency-of-work requirement.

<sup>9</sup> Social Security Administration, *Disabled Insured Workers*, accessed March 2, 2014, <http://www.ssa.gov/OACT/STATS/table4c2DI.html>.

<sup>10</sup> 42 U.S.C. §423(d)(1).

<sup>11</sup> For more information on SGA limits, see Social Security Administration, *Substantial Gainful Activity*, <http://www.ssa.gov/oact/cola/sga.html>.

<sup>12</sup> For more information, see CRS Report R41289, *Disability Benefits Available Under the Social Security Disability Insurance (SSDI) and Veterans Disability Compensation (VDC) Programs*, by Umar Moulta-Ali.

<sup>13</sup> The first month counted as part of the waiting period can be no more than 17 months before the month of application. For more information, see CRS Report RS22220, *Social Security Disability Insurance (SSDI): The Five-Month Waiting* (continued...)

earnings, indexed to reflect changes in the national average wage level. Benefits paid to current beneficiaries are adjusted to account for inflation through cost-of-living adjustments (COLA), as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).<sup>14</sup> SSA, however, may offset cash benefits if a disabled-worker beneficiary also receives workers' compensation or other public disability benefits.<sup>15</sup> Moreover, cash benefits to spouses and children of disabled workers are subject to certain maximum family benefit limits.<sup>16</sup> In February 2014, the average monthly cash benefit was \$1,145.91 for a disabled worker, \$308.04 for a spouse of a disabled worker, and \$342.21 for a child of a disabled worker.<sup>17</sup> In 2013, the SSDI program paid out \$140.1 billion in benefits to disabled workers and their dependents.<sup>18</sup>

Disabled-worker beneficiaries also receive health care coverage under Medicare following a 24-month waiting period.<sup>19</sup> In general, disabled workers retain their benefits as long as they are under their full retirement age, exhibit no substantial medical improvement, and have monthly earnings below the SGA limit.

## Financing

Benefits and administrative costs for the SSDI program are paid out of the Disability Insurance (DI) trust fund, which is financed primarily by a share of Social Security payroll taxes levied on covered wages and net self-employment income.<sup>20</sup> Employees and employers each pay a Federal Insurance Contribution Act (FICA) tax rate of 0.9% on wages to the DI trust fund, while self-employed individuals pay a Self-Employment Contribution Act (SECA) tax rate of 1.8% on net self-employment income. Social Security taxes are levied on covered wages and net self-employment income up to a taxable maximum of \$117,000 for 2014. In 2013, payroll tax revenues credited to the DI trust fund amounted to \$105.4 billion.<sup>21</sup>

The DI trust fund also receives income from the taxation of some Social Security benefits and from interest earned on trust fund asset reserves.<sup>22</sup> Occasionally, the DI trust fund receives

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(...continued)

*Period for Benefits*, by William R. Morton.

<sup>14</sup> 20 C.F.R. §404.272. The COLA is measured as the percentage increase in the CPI-W from the third quarter of the year in which the last COLA increase became effective to the third quarter of the current year. For 2014, a 1.5% COLA was applied to benefits. For more information on COLA increases, see CRS Report 94-803, *Social Security: Cost-of-Living Adjustments*, by Gary Sidor.

<sup>15</sup> 42 U.S.C. §424a.

<sup>16</sup> 42 U.S.C. §403(a)(6).

<sup>17</sup> SSA Monthly Statistical Snapshot, Table 2.

<sup>18</sup> Social Security Administration, Office of the Chief Actuary, *Time Series for Selected Financial Items*, accessed March 12, 2014, <http://www.ssa.gov/oact/ProgData/tsOps.html>.

<sup>19</sup> Due to the five-month waiting period for cash benefits, Medicare eligibility begins 29 months after the onset of disability. For more information, see CRS Report RS22195, *Social Security Disability Insurance (SSDI) and Medicare: The 24-Month Waiting Period for SSDI Beneficiaries Under Age 65*, by Scott D. Szymendera.

<sup>20</sup> See CRS Report R43318, *Social Security Disability Insurance (DI) Trust Fund: Background and Solvency Issues*, by William R. Morton.

<sup>21</sup> Social Security Administration, Office of the Chief Actuary, *Time Series for Selected Financial Items*, accessed March 12, 2014, <http://www.ssa.gov/oact/ProgData/tsOps.html>.

<sup>22</sup> See CRS Report RL32552, *Social Security: Calculation and History of Taxing Benefits*, by Noah P. Meyerson.

income via reimbursements from the General Fund. All trust fund balances are invested in special-issue, interest-bearing U.S. government securities.

In their 2013 report, the Social Security trustees projected that, under current law, the DI trust fund would be exhausted in 2016.<sup>23</sup> Upon depletion, the DI trust fund would have enough continuing revenues to pay 80% of scheduled SSDI benefits (81% by 2087).<sup>24</sup>

## Unemployment Insurance<sup>25</sup>

UI is a form of social insurance that provides temporary income support to covered workers who become unemployed through no fault of their own and meet certain other state eligibility requirements. The cornerstone of this income support is the joint federal-state Unemployment Compensation (UC) program, which may provide a partial wage replacement through the payment of UC benefits for up to a maximum of 26 weeks in most states.<sup>26</sup> Authorized under Title III of the Social Security Act, the original intent of the UC program, among other things, was to help counter adverse economic shocks such as recessions.<sup>27</sup> Although federal laws and regulations provide broad guidelines on UC benefit coverage, eligibility, and benefit determination, the specifics regarding UC benefits are determined by each state.<sup>28</sup> This results in essentially 53 different programs.<sup>29</sup> The UC program covers approximately 130.3 million jobs.<sup>30</sup> 2.8 million unemployed workers received UC at the end of the week of March 1, 2014.<sup>31</sup>

UC benefits may be extended at the state level by the permanent Extended Benefit (EB) program if high unemployment exists within the state. Once regular unemployment benefits are exhausted, the EB program may provide up to an additional 13 or 20 weeks of benefits, depending on worker eligibility, state law, and economic conditions in the state. Prior to its expiration on December 28, 2013 (December 29, 2013, in New York State), the temporary Emergency Unemployment Compensation (EUC08) program provided additional benefits of up to 47 weeks, also depending on state economic conditions.

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<sup>23</sup> The Board of Trustees, Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, *The 2013 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds*, May 31, 2013, <http://www.ssa.gov/oact/tr/2013/tr2013.pdf>. Projection is based on the trustees' intermediate assumptions.

<sup>24</sup> For more information on the solvency of the DI trust fund, see CRS Report R43318, *Social Security Disability Insurance (DI) Trust Fund: Background and Solvency Issues*, by William R. Morton.

<sup>25</sup> For detailed information on UI, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

<sup>26</sup> For more information state UC duration limits, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs.

<sup>27</sup> See, for example, President Franklin Roosevelt's remarks at the signing of the Social Security Act at <http://www.ssa.gov/history/fdrstmts.html#signing>.

<sup>28</sup> The U.S. Department of Labor (DOL) pays administrative grants to states to administer the UC system.

<sup>29</sup> The District of Columbia, Puerto Rico, and the Virgin Islands are considered states in UC law.

<sup>30</sup> For more information, see U.S. Department of Labor, *UI Outlook FY 2014 Budget Midsession Review*, 2014, p. 5, [http://www.workforcesecurity.doleta.gov/unemploy/content/midsession\\_review.asp](http://www.workforcesecurity.doleta.gov/unemploy/content/midsession_review.asp) (hereinafter cited as "U.S. DOL, UI Outlook 2014").

<sup>31</sup> U.S. Department of Labor, *Unemployment Insurance Weekly Claims Data*, accessed April 2, 2014, <http://www.workforcesecurity.doleta.gov/unemploy/claims.asp>. Figure is seasonally adjusted.

## Eligibility

In general, UC eligibility is based on attaining qualified wages and employment in covered work over a 12-month period (called a base period) prior to unemployment. All states require a worker to have earned a certain amount of wages and have worked for a certain period within the base period to be monetarily eligible to receive any UC benefits. The methods states use to determine monetary eligibility vary greatly. In addition, to meet and maintain eligibility for UI benefits, states require most covered workers to have lost their job through no fault of their own, and to be able, available, and actively seeking work.

## Benefits

UC benefits are based on wages for covered work over a 12-month base period. Most state benefit formulas replace approximately half a claimant's average weekly wage up to a weekly maximum. All states disregard some earnings during unemployment as an incentive to take short-term or part-time work while searching for a permanent position. In general, the worker's UC payment equals the difference between the weekly benefit amount and earnings. As of January 2014, the 12-month average weekly UC benefit was \$310.<sup>32</sup> In FY2014, states will spend a projected \$40.5 billion on regular UC benefits.<sup>33</sup> Any EB (or recently expired EUC08) benefit amount is equal to the eligible individual's weekly regular UC benefits.

## Financing

The UC program is financed by federal taxes under the Federal Unemployment Tax Act (FUTA) and by state payroll taxes under the State Unemployment Tax Acts (SUTA), which are deposited in the appropriate accounts within the Unemployment Trust Fund (UTF).<sup>34</sup> The 0.6% effective net FUTA tax paid by employers on the first \$7,000 of each employee's earnings (no more than \$42 per worker per year) funds both federal and state administrative costs, loans to insolvent state UC accounts, the federal share of EB payments, and state employment services.<sup>35</sup> The Department of Labor (DOL) projects that \$5.3 billion in FUTA taxes will be collected in FY2014.<sup>36</sup>

SUTA taxes on employers are limited by federal law to funding regular UC benefits and the state share of EB payments (50%). Federal law requires that the state tax be on at least the first \$7,000 of each employee's earnings (it may be more) and requires that the maximum state tax rate be at

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<sup>32</sup> U.S. Department of Labor, *Monthly Program and Financial Data*, accessed April 2, 2014, <http://ows.doleta.gov/unemploy/claimssum.asp>.

<sup>33</sup> U.S. DOL, *UI Outlook 2014*, p. 5. Under its February 2014 baseline, the Congressional Budget Office (CBO) estimates states will spend \$39.1 billion on regular UC benefits in FY2014. For more information, see U.S. Congressional Budget Office, *Unemployment Compensation – Baseline Projections*, February 4, 2014, <http://www.cbo.gov/publication/43892>.

<sup>34</sup> For more information on the UTF, see CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*, by Julie M. Whittaker.

<sup>35</sup> FUTA imposes a 6.0% gross tax rate on the first \$7,000 paid annually by employers to each employee. Employers in states with programs approved by the federal government and with no delinquent federal loans may credit 5.4 percentage points against the 6.0% tax rate, making the minimum net federal unemployment tax rate 0.6%. See CRS Report RS22954, *The Unemployment Trust Fund (UTF): State Insolvency and Federal Loans to States*, by Julie M. Whittaker, for details on how delinquent loans affect the net FUTA tax.

<sup>36</sup> U.S. DOL, *UI Outlook 2014*, p. 5.

least 5.4%. Federal law also requires the state tax rate to be based on the amount of UC paid to former employees, which is known as experience rating. Experience rating is a process for determining insurance premiums based on the cost of an insurance pool's past claims. In general, the more UC benefits paid out to its former employees, the higher the tax rate of the employer, up to a maximum established by state law. A projected \$50.5 billion in SUTA taxes will be collected in FY2014.<sup>37</sup>

The EB program is funded 50% by the federal government and 50% by the states, although the American Recovery and Reinvestment Act of 2009 (P.L. 111-5, as amended) temporarily provided for 100% federal funding of the EB program through December 31, 2013. The recently expired EUC08 benefit was 100% federally funded.

## Concurrent Receipt of SSDI and UI Benefits

Under certain circumstances, some individuals may be eligible for both SSDI and UI benefits. As noted earlier, insured workers generally meet the statutory requirements for SSDI if they have a medically determinable disability that prevents them from earning above the SGA limit (\$1,070 a month for non-blind workers in 2014). In contrast, covered workers who are unemployed through no fault of their own must be actively seeking, able, and available for work in order to be eligible for UI (as determined under state law). Therefore, individuals who are statutorily disabled under federal law but have an earnings history that meets state UC earnings thresholds under state law may be eligible to receive SSDI and UI at the same time if they are still searching for work.

Currently, there is no existing federal statute or regulation that prohibits or offsets concurrent receipt of SSDI and UI benefits.<sup>38</sup> According to SSA, "receipt of unemployment benefits does not preclude the receipt of Social Security disability benefits. The receipt of unemployment benefits is only one of many factors that must be considered in determining whether the claimant is disabled."<sup>39</sup> States, however, may elect to prohibit or reduce the UI benefits of individuals in receipt of SSDI benefits.<sup>40</sup>

Concurrent eligibility for SSDI and UI may occur before or after an individual's entitlement to SSDI cash benefits. Under a *pre-entitlement to SSDI* scenario, an individual in receipt of UI may be awarded SSDI but not be in receipt of SSDI cash benefits due to the five-month waiting period.<sup>41</sup> Concurrent beneficiaries under this scenario would maintain their eligibility for both

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<sup>37</sup> U.S. DOL, *UI Outlook 2014*, p. 5.

<sup>38</sup> SSA classifies UI benefits as unearned income, which is not subject to the SGA limit.

<sup>39</sup> Memorandum from Frank A. Cristaudo, Chief Administrative Law Judge, to All Administrative Law Judges, August 9, 2010 (available upon request for congressional clients).

<sup>40</sup> For example, Wisconsin prohibits concurrent receipt of SSDI and UI, whereas Minnesota offsets the UI benefits if the effective date of an individual's SSDI claim occurred after the start of the UC base period. For more information, see the State of Wisconsin, Department of Workforce Development, *Part 6: Eligibility Issues*, January 3, 2014, <http://dwd.wisconsin.gov/uiben/handbook/english/contentspart6.htm>; and the Minnesota Department of Employment and Economic Development, *Income That Reduces or Delays Payment*, 2014, <http://www.uimn.org/uimn/applicants/affectsbenefits/other-income/>. SSA provides Social Security Number verification and SSDI information to requesting states so they can administer applicable UI offsets.

<sup>41</sup> According to SSA, the waiting period is designed to be long enough to permit most temporary disabilities to be corrected or for the individual to show definite signs of probable recovery. For more information, see Social Security Administration, *DI 10105.070 Waiting Period for Disability Insurance Benefits (DIB)*, April 18, 2013, (continued...)

programs if they had earnings below the SGA limit and were able and available for at least part-time work. In an unpublished decision from the United States Court of Appeals for the Ninth Circuit, the court noted that

[The plaintiff's] receipt of unemployment benefits does not by itself support a conclusion that she is not credible. Generally, in order to be eligible for disability benefits under the Social Security Act, the person must be unable to sustain full-time work—eight hours per day, five days per week. However, under Oregon law, a person is eligible for unemployment benefits if she is available for some work, including temporary or part time opportunities. Therefore, [the plaintiff's] claim of unemployment in Oregon is not necessarily inconsistent with her claim of disability benefits under the Social Security Act.<sup>42</sup>

Some individuals may pursue this claiming strategy in order to maintain a certain level of income support (through UI benefits) until they are entitled to SSDI cash benefits. Upon entitlement to SSDI, such individuals would receive concurrent SSDI and UI benefits for as long as they are eligible for both programs.

Under a *post-entitlement to SSDI* scenario, SSDI beneficiaries with earnings below the SGA limit who are involuntarily terminated from their employment may be awarded UI benefits if they meet state-specific earnings thresholds. SSDI beneficiaries in this scenario typically have some limited capacity to work, often in part-time employment. During the disability determination process, an examiner will assess a claimant's *residual functional capacity* (RFC), that is, his or her maximum remaining ability to do sustained work activities.<sup>43</sup> According to SSA, sustained work activities are (1) in an ordinary work setting, (2) on a regular and continuing basis, and (3) for eight hours a day, five days a week, or an equivalent work schedule. Therefore, SSDI beneficiaries who are unable to perform sustained work activities on a full-time basis and have monthly earnings below the SGA threshold could potentially receive UI benefits should they subsequently lose their part-time job through no fault of their own.

SSDI beneficiaries may also be eligible to receive UI based on monthly earnings above the SGA limit if they participated in a *trial work period*. During a trial work period, beneficiaries receiving SSDI may test their ability to work and earn any amount for up to 9 months within a rolling 60-month period without having their benefits terminated or reduced.<sup>44</sup> In 2014, any month in which earnings exceed \$770 is considered a month of work for a beneficiary's trial work period.<sup>45</sup>

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(...continued)

<http://policy.ssa.gov/poms.nsf/lnx/0410105070>.

<sup>42</sup> *Mulanax v. Commissioner of Social Security*, 293 Fed. Appx. 522 (9<sup>th</sup> Cir. 2008). For more information, see footnote 23 in U.S. Government Accountability Office, *Income Security: Overlapping Disability and Unemployment Benefits Should be Evaluated for Potential Savings*, GAO-12-764, July 31, 2012, p. 10, <http://www.gao.gov/assets/600/593203.pdf> (hereinafter cited as “GAO, Overlapping SSDI and UI Benefits 2012”).

<sup>43</sup> Social Security Administration, *DI 24510.057 Sustainability and the Residual Functional Capacity (RFC) Assessment*, August 9, 20112, <http://policy.ssa.gov/poms.nsf/lnx/0424510057>.

<sup>44</sup> 20 C.F.R. §404.1592.

<sup>45</sup> For more information, see Social Security Administration, 2014 Red Book: A Summary Guide to Employment Supports for Persons with Disabilities under the Social Security Disability Insurance and Supplemental Security Income Programs, 2014, <http://www.ssa.gov/redbook/eng/ssdi-only-employment-supports.htm>. Following the exhaustion of a trial work period, SSDI beneficiaries enter into a 36-month extended period of eligibility (EPE), during which they are entitled to cash benefits only if their monthly earnings are below the SGA limit (SSA pays benefits for the first three months of the EPE, regardless of the earnings amount).

### Court Interpretations of Concurrent Eligibility for SSDI and UI

Generally, courts have interpreted the relationship between SSDI and UI benefits as inconsistent but not preclusive. This reading is based, in part, on the U.S. Supreme Court's ruling in *Cleveland v. Policy Management Systems Corp.*, which examined whether an individual's claim for, or receipt of, SSDI benefits would preclude the individual from pursuing a claim under the Americans with Disabilities Act of 1990 (ADA; P.L. 101-336, as amended).<sup>46</sup> In that case, an individual awarded SSDI benefits pursued an action for disability discrimination under the ADA, claiming that her employer terminated her employment without reasonably accommodating her disability.<sup>47</sup> Ultimately, the Supreme Court held that a claimant's application for SSDI does not automatically preclude the claimant from pursuing a claim under the ADA.<sup>48</sup> The Supreme Court continued that the law does not contain a strong presumption against the claimant for receiving SSDI and pursuing an ADA claim. However, the claimant's application must explain why her receipt of SSDI benefits would be consistent with filing an ADA claim.

While this case discussed the relationship between SSDI and the ADA, lower courts have relied upon similar reasoning to explain the relationship between SSDI and UI benefits. The 8<sup>th</sup> Circuit in *Jernigan v. Sullivan* noted that the receipt of unemployment compensation (UC) may be inconsistent with a disability benefits claim.<sup>49</sup> The court discussed that the plaintiff's application for UC benefits adversely affected his application for disability by weakening his credibility. In this case, the court concluded that his application for unemployment compensation indicated that the plaintiff was able to work while he simultaneously claimed he was disabled and unable to engage in "substantial gainful work activity." The court noted that "a claimant may admit an ability to work by applying for unemployment compensation benefits because such an applicant must hold himself out as available, willing and able to work."<sup>50</sup> However, the court did not go so far as to say that such a claim for unemployment compensation is conclusive proof that a claimant is not disabled. It was just an inconsistent claim in this case, particularly due to the simultaneous timing of the two claims.

Similarly, a U.S. district court held, in *Roberts v. Callahan*, that "receipt of unemployment benefits, however, does not mean that a claimant is able to work.... A desire to work likewise does not mean that a claimant can actually work."<sup>51</sup> In this case, the court had found the Administrative Law Judge's denial of the plaintiff's claims for SSDI and Supplemental Security Income (SSI) benefits erroneous and remanded the case for further consideration.

## GAO Report on Overlapping SSDI and UI Benefits

In July 2012, the Government Accountability Office (GAO) released a report that examined the issue of overlapping SSDI and UI benefits.<sup>52</sup> GAO found that 117,000 individuals received concurrent cash benefit payments from the SSDI and UI programs in fiscal year (FY) 2010 of more than \$850 million. Individuals were determined to be in concurrent receipt if they received SSDI benefits in all three months of the quarter for which they received UI benefits. These individuals represented less than 1% of the total beneficiaries in both programs, and the cash

<sup>46</sup> *Cleveland v. Policy Mgmt. Sys. Corp.*, 526 U.S. 795 (1999). The ADA provides broad nondiscrimination protection in employment, public services, public accommodations and services operated by private entities, transportation, and telecommunications for individuals with disabilities. For more information on the ADA, see CRS Report 98-921, *The Americans with Disabilities Act (ADA): Statutory Language and Recent Issues*, by Cynthia Brougher.

<sup>47</sup> For more information, see Social Security Administration, *Social Security Ruling 00-1c*, January 7, 2000, [http://www.socialsecurity.gov/OP\\_Home/rulings/di/01/SSR2000-01-di-01.html](http://www.socialsecurity.gov/OP_Home/rulings/di/01/SSR2000-01-di-01.html). The ADA requires employers to provide some level of "reasonable accommodation" for employees with disabilities unless the accommodation would pose an undue hardship on the operation of the business.

<sup>48</sup> *Cleveland v. Policy Mgmt. Sys. Corp.*, 526 U.S. 795, 797 (1999).

<sup>49</sup> *Jernigan v. Sullivan*, 948 F.2d 1070 (8<sup>th</sup> Cir. 1991).

<sup>50</sup> *Ibid.*, p. 1074.

<sup>51</sup> *Roberts v. Callahan*, 971 F. Supp. 498, 501-02 (D.N.M. 1997).

<sup>52</sup> GAO, *Overlapping SSDI and UI Benefits* 2012.

benefits they received in FY2010 totaled over \$281 million from SSDI (0.2% of annual benefit outlays) and more than \$575 million from UI (0.4% of annual benefit outlays).<sup>53</sup>

GAO also reviewed detailed SSDI and UI case files for a “nongeneralizable” selection of eight concurrent recipients.<sup>54</sup> During its examination, the agency found that some individuals received earnings while in receipt of both SSDI and UI benefits. Based on these findings, GAO suggested that concurrent receipt of SSDI and UI could be an indicator of improper payments.

In response to a draft copy of the report, SSA stated that it performed a detailed review of the cases hand-selected by GAO and found no improper payments issued due to concurrent receipt of SSDI and UI.<sup>55</sup> Moreover, SSA noted that receipt of income does not always indicate that a person is working.<sup>56</sup>

## Estimate of the Number of Concurrent SSDI and UI Beneficiaries

As shown in **Table 1**, SSA’s Office of the Chief Actuary estimates that for each month in 2014, approximately 0.39% of disabled-worker beneficiaries will be in concurrent receipt of SSDI and UI benefits.<sup>57</sup> Based on this projection, approximately 34,710 beneficiaries (0.39% of 8.9 million disabled workers) were in receipt of SSDI and UI benefits in February 2014. The number of beneficiaries receiving concurrent benefits is projected to decline to 0.35% by 2020.

**Table 1. Estimated Average Monthly Number of Concurrent SSDI and UI Beneficiaries, 2014-2023**

(as a percentage of currently entitled disabled workers)

2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
0.39%	0.39%	0.38%	0.37%	0.37%	0.36%	0.35%	0.35%	0.35%	0.35%

**Source:** Letter from Stephen C. Goss, chief actuary, to Senator Tom Coburn, January 7, 2014, [http://www.ssa.gov/oact/solvency/TCoburn\\_20140107.pdf](http://www.ssa.gov/oact/solvency/TCoburn_20140107.pdf).

**Notes:** The table provides an estimate of the number of individuals who would be expected to be in receipt of a UI payment and entitled to SSDI benefits, under current law, expressed as a percentage of those entitled to SSDI disabled-worker benefits under current law. The estimate is based on the intermediate assumptions of the 2013 trustees report.

The projected decline in the number of concurrent SSDI and UI beneficiaries is attributable largely to the decrease in the unemployment rate following the recent recession. When workers first report a work limitation due to a disability, they typically do not immediately transition onto

<sup>53</sup> In FY2010, annual benefit payments totaled \$122.9 billion from SSDI and \$156.4 billion from UI. For SSDI benefit payments data, see Social Security Administration, Office of the Chief Actuary, *Time Series for Selected Financial Items*, accessed April 1, 2014, <http://www.ssa.gov/oact/ProgData/tsOps.html>. For UI benefit payments data, see U.S. DOL, *UI Outlook 2014*, p. 8.

<sup>54</sup> GAO, *Overlapping SSDI and UI Benefits 2012*, p.3.

<sup>55</sup> *Ibid.*, p. 20.

<sup>56</sup> *Ibid.*, p. 23. For example, in one of the eight cases selected by GAO, SSA said that the wages received by a concurrent beneficiary were not actually wages, but a buy-out from when the beneficiary separated from employment.

<sup>57</sup> Letter from Stephen C. Goss, chief actuary, to Sen. Tom Coburn, January 7, 2014, [http://www.ssa.gov/oact/solvency/TCoburn\\_20140107.pdf](http://www.ssa.gov/oact/solvency/TCoburn_20140107.pdf). Projection is based on the Office of the Chief Actuary’s financial estimate of S. 1099, the Reducing Overlapping Payments Act, as introduced on June 6, 2013.

SSDI. Instead, workers gradually reduce their employment as their capacity to work declines.<sup>58</sup> Upon finally reporting a job loss, some workers with disabilities apply for UI shortly thereafter. Under normal economic conditions, there is typically a gap between disabled workers' receipt of UI and their entitlement to SSDI.<sup>59</sup> However, under adverse economic conditions such as a recession, the duration of UI benefits is extended (via EB and the temporary, now-expired EUC08), creating an overlapping period of entitlement to UI and SSDI for some workers with disabilities. As the economy recovers from the recent recession, the overlapping period of entitlement for most workers with disabilities will continue to recede.

## Arguments For and Against Eliminating or Offsetting Concurrent Receipt of SSDI and UI Benefits

Proponents of eliminating or offsetting concurrent receipt of SSDI and UI benefits argue that the practice is “double dipping” or duplicative, inasmuch as each payment serves the same function of replacing lost earnings.<sup>60</sup> They often point to GAO’s 2012 report, which noted that “while the DI and UI programs generally serve separate populations and provide separate services—thus not meeting our definition for overlapping programs—the concurrent cash benefit payments made to individuals eligible for both programs are an overlapping service for the replacement of their lost earnings.”<sup>61</sup> From their perspective, concurrent receipt of SSDI and UI pays workers twice for essentially the same reason.<sup>62</sup>

Proponents also maintain that receipt of one benefit is fundamentally contradictory with the eligibility requirements of the other, in that UI beneficiaries are required to be *able and available for work* (as determined under state law), while SSDI beneficiaries must be generally unable to work due to a severe physical or mental impairment.<sup>63</sup> From their perspective, either a worker is disabled—and thus potentially eligible for SSDI—or able and therefore possibly eligible for UI, not both. They often characterize concurrent receipt of SSDI and UI as a technical “loophole” and

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<sup>58</sup> See Nicole Maestas, Kathleen J. Mullen, and Alexander Strand, “Does Disability Insurance Receipt Discourage Work? Using Examiner Assignment to Estimate Causal Effects of SSDI Receipt,” *American Economic Review*, vol. 103, no. 5 (August 2013), pp. 1797-1829.

<sup>59</sup> See Stephan Linder, “From Working to Applying: Employment Transitions of Applicants for Disability Insurance in the United States,” *Journal of Social Policy*, vol. 42, no. 2 (April 2013), pp. 329-348. The gap between entitlement to UI and SSDI benefits is a function of, among other things, the timing of filing an application, the duration of processing an application, and the five-month waiting period.

<sup>60</sup> See Rep. Sam Johnson, “Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act of 2013,” Extensions of Remarks, *Congressional Record*, daily edition, vol. 159, part 45 (April 11, 2013), p. E432, <http://beta.congress.gov/crec/2013/04/11/CREC-2013-04-11-pt1-PgE432-2.pdf> (hereinafter cited as “Rep. Johnson’s Remarks, 2013”).

<sup>61</sup> GAO, *Overlapping SSDI and UI Benefits 2012*, p. 10. See also House Committee on Ways and Means, Subcommittee on Social Security Staff, *Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act of 2013 (H.R. 1502)*, October 7, 2013, [http://waysandmeans.house.gov/uploadedfiles/ssdi\\_and\\_unemployment\\_benefits\\_double\\_dip\\_elimination\\_1\\_pager\\_100713.pdf](http://waysandmeans.house.gov/uploadedfiles/ssdi_and_unemployment_benefits_double_dip_elimination_1_pager_100713.pdf).

<sup>62</sup> Rep. Johnson’s Remarks, 2013.

<sup>63</sup> Office of Sen. Tom Coburn, *Amendment #2607 - Eliminate overlapping unemployment and disability benefits*, January 7, 2014, [http://www.coburn.senate.gov/public/index.cfm?a=Files.Serve&File\\_id=03e76582-b561-4f72-8528-da1de44bcf32](http://www.coburn.senate.gov/public/index.cfm?a=Files.Serve&File_id=03e76582-b561-4f72-8528-da1de44bcf32).

point out that concurrent receipt of other benefits such as workers' compensation and public disability benefits offsets a disabled worker's SSDI benefits.<sup>64</sup>

On the other hand, opponents of eliminating or offsetting concurrent receipt of SSDI and UI benefits argue that the practice is consistent and appropriate under law, because the SSDI program allows beneficiaries who have some capacity to work to earn up to the monthly SGA threshold.<sup>65</sup> They also point out that SSA permits beneficiaries participating in work incentives, such as a trial work period or the Ticket to Work program, to test their ability to work without losing their benefits.<sup>66</sup> They contend that eliminating or offsetting concurrent receipt of SSDI and UI benefits may discourage SSDI beneficiaries from attempting to return to work.<sup>67</sup>

Many opponents also contend that preventing or offsetting concurrent receipt of SSDI and UI benefits discriminates against individuals with disabilities who have lost their job through no fault of their own.<sup>68</sup> They assert that, as a matter of fairness, individuals with disabilities who have paid into both programs should be able to collect both benefits if they meet the respective eligibility requirements.<sup>69</sup> Furthermore, opponents argue that, even when combined, concurrent benefits are "extremely modest," and that eliminating or offsetting concurrent receipt of SSDI and UI benefits would adversely affect workers with disabilities and their families.<sup>70</sup>

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<sup>64</sup> Office of Sen. Rob Portman, *Portman Offers Amendment to Prevent Duplicative Spending By Ending Double-Dipping between Unemployment & Disability Benefits*, January 8, 2014, <http://www.portman.senate.gov/public/index.cfm/2014/1/portman-offers-amendment-to-prevent-duplicative-spending-by-ending-double-dipping-between-unemployment-disability-benefits>. The offset formula is prescribed in 42 U.S.C. §424a. The offset does not apply to all forms of workers' compensation or public disability. For more information, see Social Security Administration, *Workers' Compensation/Public Disability Benefit (WC/PDB) Offset*, July 31, 2013, <http://policy.ssa.gov/poms.nsf/lnx/0452100000>. See also Social Security Administration, *How Workers' Compensation and Other Disability Payments May Affect Your Benefits*, Publication No. 05-10018, January 2011, <http://www.ssa.gov/pubs/EN-05-10018.pdf>.

<sup>65</sup> Consortium for Citizens with Disabilities, *Emergency Unemployment Compensation (EUC) Extension: Don't Cut Social Security to Pay For an EUC Extension*, January 12, 2014, [http://www.c-c-d.org/fichiers/DI\\_UI\\_FactSheet-1-12-14.pdf](http://www.c-c-d.org/fichiers/DI_UI_FactSheet-1-12-14.pdf) (hereinafter cited as "CCD DI/UI Factsheet 2014").

<sup>66</sup> For more information on SSDI work incentives, see Social Security Administration, 2014 Red Book: A Summary Guide to Employment Supports for Persons with Disabilities under the Social Security Disability Insurance and Supplemental Security Income Programs, 2014, <http://www.ssa.gov/redbook/>. The Ticket to Work program provides SSDI and SSI beneficiaries with a ticket or voucher to obtain employment and other support services. For more information on the Ticket to Work program, see CRS Report R41934, *Ticket to Work and Self-Sufficiency Program: Overview and Current Issues*, by William R. Morton.

<sup>67</sup> CCD DI/UI Factsheet 2014.

<sup>68</sup> Sen. Tom Harkin, "Unemployment Compensation," Senate debate, *Congressional Record*, daily edition, vol. 160, part 7 (January 13, 2014), pp. S285-S288, <http://beta.congress.gov/crec/2014/01/13/CREC-2014-01-13-pt1-PgS285.pdf>.

<sup>69</sup> Ibid. Although UI taxes are paid by employers, most labor economists believe that the employers' share of payroll taxes is ultimately borne by employees in the form of lower wages and benefits than would otherwise be paid. For more information, see Gary Burtless and Sveta Milusheva, "Effects of Employer-Sponsored Health Insurance Costs on Social Security Taxable Wages," *Social Security Bulletin*, vol. 73, no. 1 (February 2013), <http://www.ssa.gov/policy/docs/ssb/v73n1/v73n1p83.html>.

<sup>70</sup> Consortium for Citizens with Disabilities, *Emergency Unemployment Compensation (EUC) Extension: S. 2097 Permanently Raids Social Security to Pay For a 6-Month EUC Extension, Hurting Workers with Disabilities and Their Families*, March 12, 2014, [http://www.c-c-d.org/fichiers/CCD\\_S\\_2097\\_Fact\\_Sheet03-12-14.pdf](http://www.c-c-d.org/fichiers/CCD_S_2097_Fact_Sheet03-12-14.pdf).

# Legislative Proposals in the 113<sup>th</sup> Congress to Eliminate or Offset Concurrent Receipt SSDI and UI Benefits

Numerous proposals have been introduced in the 113<sup>th</sup> Congress to prevent or offset concurrent receipt of SSDI and UI benefits. These proposals take one of three general approaches to offsetting or preventing concurrent receipt of benefits.

1. The first approach treats receipt of UI benefits as engaging in SGA, which would delay receipt of SSDI cash benefits and Medicare for individuals awarded but not yet entitled to SSDI benefits, and could lead to a suspension of SSDI cash benefits for individuals already entitled to SSDI (H.R. 1502, S.Amdt. 2613 to S. 1845, and H.R. 3885).
2. The second approach suspends SSDI cash benefits for any month in which an individual receives UI benefits (S. 1099).
3. The third approach reduces SSDI cash benefits, dollar for dollar, for any month in which an SSDI beneficiary is in receipt of UI benefits (S.Amdt. 2631 to S. 1845, S. 1931, S. 2097, and the President's FY2015 Budget).

Each approach to preventing or reducing concurrent receipt of SSDI and UI benefits results in savings to the SSDI program. Because UI payments are often less for a month than SSDI benefits, SSA's Office of the Chief Actuary estimates that some individuals will forgo UI payments in order to maintain receipt of SSDI benefits, resulting in savings to the UI programs as well.<sup>71</sup>

The following section examines proposals that have been formally introduced in the 113<sup>th</sup> Congress to prevent or offset concurrent receipt of SSDI and UI benefits. This section also examines a proposal in the President's FY2015 Budget to offset concurrent receipt of SSDI and UI benefits.

## H.R. 1502

H.R. 1502, the Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act, was introduced on April 11, 2013. The bill would treat any month in which an individual receives UI benefits as a month in which the individual engaged in SGA for the purpose of SSDI eligibility. S.Amdt. 2613 to S. 1845, the Emergency Unemployment Compensation Extension Act, and H.R. 3885, the GROWTH Act, contain similar provisions to H.R. 1502.<sup>72</sup>

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<sup>71</sup> Most UI savings would be credited to states since UI benefits are generally state outlays; however, state accounts in the Unemployment Trust Fund (UTF) are included in the federal budget.

<sup>72</sup> H.R. 1502, S.Amdt. 2613 to S. 1845, and H.R. 3885 also treat any month in which an individual is in receipt of Trade Adjustment Assistance (TAA) as a month in which the individual engaged in SGA. TAA provides federal assistance to workers who have been adversely affected by foreign trade. For more information on TAA, see CRS Report R42012, *Trade Adjustment Assistance for Workers*, by Benjamin Collins.

Treating receipt of UI as evidence of SGA would have two distinct effects. First, it would prohibit any month in which an UI benefit is received to be counted as a month toward the five-month waiting period, which would delay receipt of SSDI cash benefits and Medicare for individuals awarded but not yet entitled to SSDI benefits. Second, it would count any month in which an UI benefit is received as either a trial work month or a month of SGA if the beneficiary exhausted the trial work period, which could lead to a suspension of cash benefits for individuals entitled to SSDI.<sup>73</sup>

According to the Office of the Chief Actuary, if H.R. 1502's provision had been effective for months starting in January 2014, H.R. 1502 would have reduced SSDI benefit payments by \$8.0 billion in total for calendar years 2014 through 2023.<sup>74</sup> The Office of the Chief Actuary also estimated that H.R. 1502 would have reduced UI payments by \$2.3 billion over the same period.

## S. 1099

S. 1099, the Reducing Overlapping Payments Act, was introduced on June 6, 2013. The bill would suspend SSDI cash benefits for any month in which an SSDI beneficiary is in receipt of UI benefits. The Office of the Chief Actuary estimated that if S. 1099 were implemented starting in July 2014, it would reduce SSDI benefit payments by \$2.9 billion in total for calendar years 2014 through 2023.<sup>75</sup> The bill would also reduce UI payments by a total of \$2.0 billion over the same period.

## S.Amdt. 2631 to S. 1845

S.Amdt. 2631 to S. 1845, the Emergency Unemployment Compensation Extension Act, was submitted and proposed on January 9, 2014. The amendment, among its many provisions, would reduce SSDI cash benefits, dollar for dollar, for any month in which an SSDI beneficiary is in receipt of UI benefits.<sup>76</sup> The Congressional Budget Office (CBO) estimated that if the provision had been enacted at the end of January 2014, it would have reduced federal outlays by \$1.17 billion for FY2014 through FY2023.<sup>77</sup>

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<sup>73</sup> Specifically, H.R. 1502 would amend 42 U.S.C. §422(c) to deem entitlement to UI benefits as evidence of "services rendered" during a trial work period. For more information on the trial work period, see 20 C.F.R. §404.1592.

<sup>74</sup> Letter from Stephen C. Goss, chief actuary, to Rep. Sam Johnson, chairman, Subcommittee on Social Security, January 7, 2014, [http://www.ssa.gov/oact/solvency/SJohnson\\_20140107.pdf](http://www.ssa.gov/oact/solvency/SJohnson_20140107.pdf). Projection is based on the intermediate assumptions of the 2013 Social Security trustees report. The reduction in SSDI benefits would result in a small reduction in taxes paid on benefits.

<sup>75</sup> Letter from Stephen C. Goss, chief actuary, to Sen. Tom Coburn, January 7, 2014, [http://www.ssa.gov/oact/solvency/TCoburn\\_20140107.pdf](http://www.ssa.gov/oact/solvency/TCoburn_20140107.pdf). Projection is based on the intermediate assumptions of the 2013 Social Security trustees report. The reduction in SSDI benefits would result in a small reduction in taxes paid on benefits.

<sup>76</sup> The amendment was tabled on February 4, 2014.

<sup>77</sup> U.S. Congressional Budget Office, *Preliminary Estimate for Senate Amendment 2631 to S. 1845, the Emergency Unemployment Compensation Extension Act*, January 9, 2014, <http://cbo.gov/sites/default/files/cbofiles/attachments/s1845%20Amendment%202631.pdf>. The effective date of the provision would apply 12 months after the date of enactment. The reduction in benefits would have also reduced revenues by \$32 million for FY2014 through FY2023.

## S. 1931 and S. 2097

S. 1931, the Responsible Unemployment Compensation Extension Act of 2014, and S. 2097, the Responsible Unemployment Compensation Extension Act of 2014, were introduced January 16, 2014, and March 6, 2014, respectively. The two bills, among their many other provisions, would reduce SSDI cash benefits, dollar for dollar, for any month in which an SSDI beneficiary is in receipt of UI benefits, unless the UI benefits are based on the beneficiary's participation in a trial work period, the Ticket to Work program, or other approved work program.

## President's FY2015 Budget Proposal

The President's FY2015 Budget contains a proposal that would reduce SSDI cash benefits, dollar for dollar, for any month in which an SSDI beneficiary is in receipt of UI benefits.<sup>78</sup> The Office of the Chief Actuary projects that if the proposal were enacted in January 2015 (with the offset applied starting in August 2016), it would reduce SSDI benefit payments by \$2.67 billion in total for calendar years 2015 through 2024.<sup>79</sup> The proposal would also reduce UI payments by \$0.88 billion over the same period.

**Table 2. Proposals to Eliminate or Offset Concurrent Receipt of SSDI and UI Benefits**

Proposal	Approach to Eliminating or Offsetting Concurrent SSDI and UI Benefits	Cost Estimate (if available)
H.R. 1502	Treat Receipt of UI or Trade Adjustment Assistance (TAA) as SGA for the Purpose of SSDI Eligibility	Calendar Years 2014-2023 <sup>a</sup> SSDI Benefit Savings: \$8.0 billion UI Benefit Savings: \$2.3 billion
S.Amdt. 2613 to S. 1845, and H.R. 3885	Treat Receipt of UI or TAA as SGA for the Purpose of SSDI Eligibility	Not Available
S. 1099	Suspend SSDI Benefits for Any Month in which an Individual receives UI	Calendar Years 2014-2023 <sup>a</sup> SSDI Benefit Savings: \$2.9 billion UI Benefit Savings: \$2.0 billion
S.Amdt. 2631 to S. 1845	Offset SSDI Benefits by UI Benefit Amount (dollar for dollar)	Fiscal Years 2014-2023 <sup>b</sup> Reduction in Federal Outlays: \$1.17 billion
S. 1931 and S. 2097	Offset SSDI Benefits by UI Benefit Amount (dollar for dollar), unless UI benefits are based on participation in approved work incentives	Not Available

<sup>78</sup> Office of Management and Budget, *Analytical Perspectives, Budget of the United States Government, Fiscal Year 2015*, March 2014, p. 174, <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2015/assets/spec.pdf>.

<sup>79</sup> Letter from Stephen C. Goss, chief actuary, to the Hon. Sylvia Mathews Burwell, director, Office of Management and Budget, March 4, 2014, [http://www.ssa.gov/oact/solvency/FY15Budget\\_20140304.pdf](http://www.ssa.gov/oact/solvency/FY15Budget_20140304.pdf). Projection is based on the intermediate assumptions of the 2013 Social Security trustees report. The reduction in SSDI benefits would result in a small reduction in taxes paid on benefits.

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<b>Proposal</b>	<b>Approach to Eliminating or Offsetting Concurrent SSDI and UI Benefits</b>	<b>Cost Estimate (if available)</b>
President's FY2015 Budget	Offset SSDI Benefits by UI Benefit Amount (dollar for dollar)	<i>Calendar Years 2015-2024<sup>a</sup></i> SSDI Benefit Savings: \$2.67 billion UI Benefit Savings: \$0.88 billion

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**Source:** Congressional Research Service (CRS).

- a. Cost estimate performed by SSA's Office of the Chief Actuary.
- b. Cost estimate conducted by the Congressional Budget Office (CBO).

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