Judge Can Rarely Rule ‘No’

BY DAMIAN PALETTA

HUNTINGTON, W.Va.—Americans seeking Social Security disability benefits will often appeal to one of 1,500 judges who help administer the program, where the odds of winning are slightly better than even. Unless, that is, they come in front of David B. Daugherty.

In the fiscal year that ended in September, the administrative law judge, who sits in the impoverished intersection of West Virginia, Kentucky and Ohio, decided 1,284 cases and awarded benefits in all but four. For the first six months of fiscal 2011, Mr. Daugherty approved payments in every one of his 729 decisions, according to the Social Security Administration.

The judge has maintained his near-perfect record despite years of complaints from other judges and staff members. They say he awards benefits too generously and takes cases from other judges without their permission.

Staffers in the Huntington office say he hears a disproportionate number of cases filed by one area attorney. Mr. Daugherty has been known to hold hearings for as many as 20 of this lawyer’s clients spaced 15 minutes apart.

Mr. Daugherty is a standout in a judicial system that has lost its way, say numerous current and former judges. Judges say their jobs can be arduous, protecting the sometimes divergent interests of the applicant and the taxpayer. Critics blame the Social Security Administration, which oversees the disability program, charging that it is more interested in clearing a giant backlog than ensuring deserving candidates get benefits. Under pressure to meet monthly goals, some judges decide cases without a hearing. Some rely on medical testimony provided by the claimant’s attorney.

This breakdown is one reason why Social Security Disability Insurance—one of the federal government’s two disability programs—is under severe financial strain. It paid a record $124 billion in benefits in 2010 and is on track to become the first major entitlement program to go bust. Government officials said last week it is expected to run out of money in 2018.

Mr. Daugherty, 75 years old, processes more cases than all but three judges in the U.S. He has a wary view of his less-generous peers. “Some of these judges act like it’s their own damn money we’re giving away,” Mr. Daugherty told a fellow Huntington judge, Algernon Tinsley, who worked in the same office until last year, Mr. Tinsley recalled.

Mr. Daugherty, in a written response to questions about the comment, said such a phrase is “more or less a standing joke” among disability-benefit review offices around the country. “No more, no less.”

He said every decision he makes is fully supported by relevant medical reports and physical and/or mental residual functional capacity assessments from treating or examining doctors or other medical professionals.

When asked about Mr. Daugherty, Social Security Administration Commissioner Michael Astrue said in an interview there were several “outliers” among administrative law judges, but that he has no power to intervene because their independence is protected by federal law. Their appointments are lifetime.

“We mostly have a very productive judiciary that makes high-quality decisions, and we’ve got some outliers and we’ve done what we can,” said Mr. Astrue. “Our hands are tied on some of the more extreme cases.”

Social Security Administration officials acknowledge they are trying to clear a backlog of 730,000 cases. But they say they remain focused on ensuring taxpayer money isn’t wasted. “We have an obligation to the people in need to provide them their benefits if they qualify, but we also have an obligation to the taxpayer not to give benefits to people who don’t qualify,” Mr. Astrue said.

Following inquiries from The Wall Street Journal, the Social Security Administration’s inspector general’s office launched an investigation into Mr. Daugherty’s approval rate, according to several people briefed on the matter. Mr.
Daugherty said he isn’t aware of any investigation.

Social Security, with an $800 billion annual budget, is one of the government’s largest expenses, and is best known for sending monthly payments to retired Americans. But it also pays disability claims for 18 million people each year, with numbers pushed higher because of the recent recession. The federal government runs two separate programs to assist people unable to work because of a debilitating mental or physical disability.

For some, applying for benefits can be an agonizing process that takes more than two years. Benefits are modest—they can run around $1,000 a month—but come with access to government-run health plans Medicare and Medicaid. Analysts estimate the total package costs $300,000 over a beneficiary’s lifetime.

To clear the backlog of cases, the Social Security Administration in 2008 pushed judges to move between 500 and 700 cases a year, something less than half of judges were managing at the time, according to Mr. Astue, the commissioner. To compensate, judges began making many decisions “on the record,” which means they grant benefits to applicants without meeting them, hearing testimony or asking questions, according to several judges. This has been a favorite approach for Mr. Daugherty, people who have worked with him say.

Mr. Daugherty doesn’t dispute the characterization, and said in these circumstances he weighs “the evidence in the same manner as in cases requiring a hearing.” He said the process “saves the agency a great deal of money and work hours.”

The Social Security Administration “cares only about number of resolutions; quality is no longer a serious concern,” James S. Bukes, a Pittsburgh administrative law judge, wrote in a recent letter to the House subcommittee that oversees Social Security. Mr. Bukes, who approved 46% of disability applicants through the first half of this fiscal year, said the system “wastes millions of dollars by granting claims that are not meritorious.”

Mr. Daugherty became a So-
cial Security judge in 1990 after serving as an elected Cabell County circuit court judge during the 1970s and 1980s. Born and raised in Huntington, he introduced himself as „D.B.,“ according to program notes for a recent local production of „Titanic: The Musical,“ in which Mr. Daugherty played John Jacob Astor. He’s also a devotee of ka- racka.

„He is a very, very well respected man in the community,“ said Nancy Cartmill, president of the Cabell County Commission.

„He’s been there for years. In 2005, he reached 955 decisions, approving benefits in 90% of the cases. From 2006 through 2008, he decided 3,645 cases, approving benefits roughly 95% of the time. Last year, at 99.7%, he had one of the highest award rates in the country, and is on pace to award even more benefits in 2011, according to agency statistics.

As Mr. Daugherty’s numbers rose, judges, staff and local attorneys began complaining about the volume of cases brought before the judge by one Kentucky lawyer.

The lawyer, Eric C. Conn, runs his Social Security practice out of a collection of connected mobile homes in Stanville, Ky., where he erected a giant statue of Abraham Lincoln in the parking lot. His smiling face adornes billboards up and down U.S. Highway 23, and his slogan is „he gets the job done.“ Mr. Conn hired Mr. Tinsley, the former Huntington judge, and promotes him on local billboards, too. Mr. Conn often brings an inflatable replica of himself to events. His website address is mrssocialsecurity.com.

Judges and staff in the Huntington office have complained to supervisors that Mr. Daugherty assigns himself Mr. Conn’s cases, including some that were assigned to other judges, two former judges and several staff said. Cases are supposed to be assigned randomly.

According to a court schedule of Mr. Daugherty’s day reviewed by The Wall Street Journal dated Feb. 22, 2006, Mr. Daugherty held 20 hearings spaced 15 minutes apart for Mr. Conn and his clients in a Prestonsburg, Ky., field office. Such days can be a bonanza for lawyers: The average fee for one approval is between $3,000 and $3,500 and can go as high as $6,000.

„The Conn situation was something we really harped on,“ said Jennifer Griffith, a master docket clerk in the office until she left in late 2007. „We made sure management knew about it. We gave them every chance to come up with some sort of logical explanation or to get it to stop, and that never happened."

Mr. Daugherty said he prefers a crammed timetable because he is dyslexic and must fit all of his hearings within four or five days each month because he „simply cannot spend that much time in the courtroom.”

Holding hearings within just a few days „allows me sufficient time to review and prepare for hearings, resulting in full and complete knowledge of the documents in the case prior to hearing,“ he added.

Huntington’s chief administrative judge, Charlie Andrus, said he was notified on four occasions of Mr. Daugherty either taking cases assigned to other judges or taking unassigned cases. Mr. Andrus said he issued a written directive on April 29 that „no case was to be reassigned between judges by anyone unless I gave specific permission.”

Mr. Daugherty said he believed judges could take cases „so long as no other [administrative law judge] had seen or reviewed the file.” He said he was „recently reminded that is no longer true and I promptly returned the cases to the original assignees.”

Stephen Sammons, 37, of Mavisdale, Va., said he injured his neck and back in a truck accident in 2001. He continued working until 2008 when the pain became unbearable, he said. He quit his job and filed for disability benefits.

Several doctors authorized by the Social Security Administration to look at his injuries disputed his claim that his condition was caused by the accident. He retained Mr. Conn, and the case ended up before Huntington judge Toby J. Buel Sr., who rejected the claim in February 2010.

Mr. Conn resubmitted Mr. Sammons’ claim, and Mr. Sammons said he was surprised when Mr. Conn’s office called and said he wouldn’t have to appear before the judge and would only have to see a doctor, selected by Mr. Conn. The new medical records were filed to Mr. Daugherty, who approved the case without Mr. Sammons having to appear.

Mr. Daugherty declined to comment on the case.

A possible connection between Messers. Daugherty and Conn is a subject of the inspector general’s investigation, according to two people familiar with the probe. Neither Messers. Conn or Daugherty have been accused of wrongdoing. Mr. Daugherty said he has „absolutely not” received anything of value from Mr. Conn or his associates for processing the lawyer’s cases. He said he has denied a “goodly number” of Mr. Conn’s cases over the years, though he couldn’t provide a specific figure.

Mr. Conn declined multiple interview requests, and didn’t respond specifically to written questions. In a statement, he said he had „not been contacted by any one indicating any investigation being conducted.”

He added: „I have tried very hard in my 18 years of being a lawyer to represent my clients and the profession honestly and ethically seeking results based on the merits of my client’s cases and the results that come from hard work and not from any improper conduct.”

Some former judges and staff said one reason Mr. Daugherty was allowed to continue processing so many cases was because he single-handedly helped the office hit its monthly goals. Staff members can win bonuses and promotions if these goals are surpassed as part of performance reviews.

Dan Kemper, who began working as a judge in the Huntington office with Mr. Daugherty in 1990, said the Social Security agency’s management refused to intervene because of the number of cases Mr. Daugherty approved without interviewing applicants. Mr. Kemper, who was known in the area as “Denying Dan” for his relatively strict approach, retired in 2007 because he felt the system was unfair.

„The only way you could really get that many cases out was to grant them all, because it was so much easier,” Mr. Kemper said.

In late April, the Huntington office held 50 of Mr. Daugherty’s cases—all approvals for Mr. Conn’s clients—so they could be processed in May, because the office had already hit their monthly goal, people familiar with the matter said. Those applicants will have to wait an additional month to receive benefits. Mr. Conn, who receives a percentage of the back pay owed to his clients, will collect more fees because of the delay. The Huntington office will get a head start on the next month’s target.

Mr. Daugherty said cases are held to space out his approvals, which he attributed to „the numbers game” that most, if not all, federal agencies are subject to.”

Mr. Andrus said cases weren’t held to meet monthly numbers. He said Mr. Daugherty’s cases can be held because other applicants might have been waiting longer for benefits and those cases might take priority.

In a brief telephone interview in April, Mr. Daugherty blamed high mortgage rates in Eastern Kentucky for his large case load and high approval rate.

„People would really be surprised at how little education those people have,” he said. „If they have a fourth-grade education, they couldn’t get a job if their lives depended on it.”
Insolvency Looms as States Drain U.S. Disability Fund

BY DAMIAN PALETTA

CAGUAS, Puerto Rico—This mountainside town is home to a picturesque cathedral, a tobacco museum and a Wal-Mart Supercenter. Another defining feature: Caguas’s 00725 zip code has more people who receive a disability check than any other in the U.S.

Puerto Rico has emerged in recent years as one of the easiest places in the U.S. to get payments from the Social Security Disability Insurance program, created during the Eisenhower administration to help people who can’t work because of a health problem. In 2010, 63% of applicants there won approval, four percentage points higher than New Jersey and Wyoming, the most generous U.S. states. In fact, nine of the top 10 U.S. zip codes for disabled workers receiving benefits can be found on Puerto Rico.

The SSDI is set to soon become the first big federal benefit program to run out of cash—and one of the main reasons is U.S. states and territories have a large say in who qualifies for the federally funded program. Without changes, the Social Security retirement fund can survive intact through about 2040 and Medicare through 2029. The disability fund, however, will run dry in four to seven years without federal intervention, government auditors say.

In addition to the uneven selection process, SSDI has been pushed to the brink of insolvency by the sour economy. A huge wave of applicants joined the program over the past decade, boosting it from 6.6 million beneficiaries in 2000 to 10.2 million in 2010. New recipients have come from across the country, with an 85% increase in Texas over 10 years and a 69% increase in New Hampshire.

Over the years, Puerto Rico’s dependence on SSDI has grown particularly stark, exacerbated by the closure of factories and U.S. military installations, an exodus of skilled workers and a number of corruption scandals.

Seated next to a wooden statue of an angel in his office, Pedro Torres-Morales, a doctor in the south Puerto Rican town of Maunabo, described the situation as “a political problem, an economic problem, a health problem, a social problem.”

To others, it’s mainly a matter of abuse. “The mentality is that it’s big, rich Uncle Sam’s money,” said Ivan Gonzalez-Cancel, a prominent Democrat and cardiac surgeon in San Juan who is planning to run for governor in 2012 for the New Progressive Party. He said the system is rife with corruption, something local and federal officials deny.

Unlike Medicare or the Social Security retirement fund, which provide benefits mostly based on age, SSDI decisions are based in large part on medical opinions, which can vary from doctor to doctor, state to state.

Because someone else pays the bills, local officials have little incentive to keep the numbers low. The feds have tried to enforce consistency, but the process relies heavily on the judgment of doctors and administrative law judges who hear appeals.

Benefits can be modest: In 2009, they averaged $1,064 a month. But the program opens up access for recipients to other government programs, multiplying the ultimate cost to taxpayers.

Anyone who spends two years on SSDI qualifies for the Medicare health program, which usually is available only for those 65 years old and older. SSDI recipients tend to remain tethered to the program for years, and the government’s lifetime financial commitment averages $300,000 per person, estimates David Autor, an SSDI expert who teaches at the Massachusetts Institute of Technology. “The system has profound problems,” Mr. Autor said.

SSDI’s financial woes pose a major test for the White House and Congress, which have been reluctant to tackle the budget-busting costs of entitlements.

Analysts who track the program say the only short-term way to save it without raising taxes would be to fold it into the fund that pays Social Security. That would likely force retirees to face benefit cuts two or three years sooner than they otherwise would have done, because SSDI costs would diminish retirement funds.

Supporters say SSDI serves a vital need for millions of people who have paid into the system, qualify for the benefits and depend on the income. Some contend its problems can be fixed by raising taxes or by diverting money from the Social Security fund for retirees.

“This is a program of crucial importance to every working American and his or her family,” said Nancy Altman, co-director of Social Security Works, a group that fights cuts in Social Security benefits.

Critics have raised concerns about the solvency of the program, backed by a report last year from the nonpartisan Government Accountability Office alleging that the government was paying benefits to some people who didn’t deserve them.

Millions of Americans fund the program through a portion of the Federal Insurance Contributions Act tax that’s tied to their income. The disability insurance trust fund was created in 1957 to provide a backstop to people who worked several years before suffering a debilitating illness or injury. Disability beneficiaries can now include those with cancer, chronic back pain, persistent anxiety and schizophrenia.

Applicants should no longer be able to work in a substantial, gainful way, and must provide medical records affirming the likelihood the applicant won’t be
able to work for at least another year, or that their health problems would eventually result in death.

The program has been a feature in agricultural, manufacturing and urban communities across the U.S., particularly where unemployment rates are high. As a percentage of total population, more SSDI money flows to West Virginia than anywhere else, according to government data. Experts attribute high concentrations there to unemployment and health problems related to manual labor.

Still, West Virginia has one of the highest rejection rates of applicants anywhere in the country, with just 36.7% of applicants making it into the programs on their initial applications last year, compared to a national average of 46.9%.

In 2005, SSDI began spending more money than it brought in through tax receipts. In 2010, the number of beneficiaries grew by 489,887, the largest one-year increase ever. It is projected to spend $153 billion on benefits and other costs in 2015, $22 billion more than it brings in through tax revenue and other income. Its surplus funds built up over the years are expected to be extinguished in four to seven years.

Puerto Rico has long had an outsized reliance on disability benefits. The island has had a double-digit jobless rate for most of the past 30 years, settling at 15.7% at the end of December. Doctors here say as people find it harder to get a job, they apply for disability benefits.

Even though Puerto Rico's population fell in the past 10 years, from 3.8 million people in 2000 to roughly 3.7 million today, the number of people on SSDI rose 25% from 2000 through 2009 to 182,206. The Social Security Administration spent roughly $163 million a month in SSDI benefits to Puerto Rico in 2009, the last available full-year data, accounting for 2% of the program's total spending.

In 2006, just 38% of applicants in Puerto Rico were approved for benefits. By 2010, the rate had rocketed. In December, 69% of applicants were approved, the highest one-month approval rate by any state or U.S. territory since 2003.

On a recent weekday, 20 people waited for their names to be called inside the Social Security Administration's third-floor office in Caguas under framed portraits of President Barack Obama, Vice President Joseph Biden and SSA Commissioner Michael Astrue.

The pale-blue room looked like any other government office, with 22 customer-service windows and a white SSA seal on the glass door.

Twenty-seven miles away is the zip code with the second most SSDI beneficiaries—00779—home to the coastal town of Yabucoa and its 22% unemployment rate. At the end of 2009, 3,385 people, about 15% of its residents, received SSDI benefits. Lissette Francesch, from Peñuelas, Puerto Rico, lost her job as a hospital nurse during a round of layoffs in 2008. The 54-year-old fell into a depression that she said required psychiatric help. “I had panic attacks, I couldn’t get out alone, I couldn’t drive,” she said. “There was no way I could work.”

Seven months after her layoff, in late 2008, she applied for SSDI and was denied for “insufficient information.” Later, a bone scan detected she had an incipient form of arthritis, and she applied again in early 2009. In November 2010, she told her story to a judge. Detailing her layoff, the depression and her arthritis. She was granted $1,084 a month in benefits, retroactive to when she filed in early 2009.

Marcos Rodriguez-Ema, chief of staff to Puerto Rico Gov. Luis Fortuno, said he couldn’t explain why the island’s approval rate has spiked. He speculated more people were pursuing cases because it was harder to find jobs and decent health care. He said it wasn’t the result of any change in policy on the island.

Beatrice Dismian is in charge of the Social Security Administration’s New York region, which oversees operations in Puerto Rico. She said the island has to follow national regulations. “They are not free to do things on their own,” she said. “How you make a disability decision is the same in Puerto Rico as it is in New York, and they must follow the same rules.”

She said a routine external re-

---

Subjective Approvals | Disability payments are based on doctors’ opinions, which vary widely by state

<table>
<thead>
<tr>
<th>Percentage of Social Security Disability Insurance applications that receive initial approval, 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>50% or more</td>
</tr>
</tbody>
</table>

Source: Social Security Administration

---

Number of SSDI beneficiaries

<table>
<thead>
<tr>
<th>Total benefits paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>$125 billion</td>
</tr>
</tbody>
</table>

Source: Social Security Administration

---

Puerto Rico

---

Tuesday, March 22, 2011

THE WALL STREET JOURNAL

---

view found that cases in Puerto Rico were decided accurately 99% of the time in 2010. One reason the approval rate has increased is that the government has hired more people in recent years to process applications for benefits, which has expedited the process, Ms. Dismian said.

Government officials say there are a number of checks in place to prevent inconsistencies, including backup screenings conducted remotely, meant to stop people from obtaining benefits who don’t meet federal standards.

Doctors, lawyers, and others say standards are left to the interpretation of the many officials involved in the process, which makes it easier for people to get into the system. The $1,000-a-month SSDI check can pay almost as much as a low-wage job in Puerto Rico, and it comes with access to health care.

Administrative law judges in Puerto Rico, who make decisions in cases that are initially rejected or need further review, approved full or partial benefits in 80% of the cases they reviewed in fiscal 2010, according to data reviewed by The Wall Street Journal. One judge in San Juan, Manuel del Valle, approved 98% of the cases brought to him during that span, according to data reviewed by The Wall Street Journal. Mr. del Valle, through a Social Security spokesperson, declined to comment.

Doctors in the area say applicants are still pouring into the system. Several said the SSDI pro-
gram has become so large, and in some cases so dependent on medical opinions, that patients have worked out which doctors and government officials are less stringent, a phenomenon that lawyers in the U.S. said is also occurring in different parts of the country. They say this explains the high concentrations of beneficiaries in certain areas.

"I tell my secretary that I won't see someone in my office just to fill out forms for the Social Security Administration," said Carlos G. Díaz Silva, a doctor from the southern town of Ponce, who until recently headed the Puerto Rico chapter of the American Psychiatric Association. "It makes me very uncomfortable because there's already an economic consideration."

—Keith Johnson contributed to this article.
Doctor Revolt Shakes Disability Program

BY DAMIAN PALETTA

Earlier this year, senior managers at the Social Security Administration in Baltimore, frustrated by a growing backlog of applications for federal disability benefits, called meetings with 140 of the agency’s doctors.

The message was blunt: The number of people seeking benefits had soared. Doctors had to work faster to move cases. Instead of earning $90 an hour, as they had previously, they would receive about $80 per case—a pay cut for many cases which can take 60 to 90 minutes to review—unless the doctors worked faster. Most notably, it no longer mattered if doctors strayed far from their areas of expertise when taking a case.

“The implication there was that you really didn’t have to be that careful and study the whole thing,” said Rodrigo Toro, a neurologist who analyzed cases for the Social Security Administration for more than 10 years. Some doctors, including Dr. Toro, quit following the changes. Others were fired. In all, 45 of the 140 left within months, the agency said.

The upheaval, described by current and former doctors and agency officials, is the latest strain on a cash-strapped program struggling to deal with a giant influx of applications.

In targeting the doctors, the Social Security Administration says it is seeking to overhaul a part of the disability-review process that can be both expensive and slow.

But many doctors and former agency officials say the changes threaten the quality of decisions. Several doctors said medical opinions were now prone to inaccuracy since many specialists don’t have the backgrounds to make decisions outside their areas of expertise. The new policy could make doctors more likely to award benefits to those who don’t qualify and deny benefits to those who are entitled, these doctors said.

After the procedures were implemented in Baltimore, an eye doctor was assigned back-pain cases, several doctors said. A dermatologist reviewed the files of someone who had a stroke. A gastroenterologist reviewed the case of someone with partial deafness, the doctors said.

All of the medical consultants working in the program went to medical school or had other extensive training, preparing them for the wide range of cases that might cross their desks, according to interviews with more than 10 of the program’s current and former doctors.

But many of the doctors haven’t practiced outside their specialty in decades, if at all, making the complexities of disability cases even harder to analyze, several doctors said.

Doctors who specialize in nerve disorders “would be hard pressed to evaluate diabetes and heart disease and ... leukemia,” said James McPhillips, a doctor who left the program in April once he realized the changes that were coming.

“People who shouldn’t be getting [disability] are getting it, and people who should be getting it aren’t getting it,” said Neil Novia, former chief of surgery at Baltimore’s Harbor Hospital, who worked for Social Security part time for about 10 years. In August, Dr. Novia said, he was pressured by a supervisor to change his medical opinion and award benefits to someone he didn’t believe had disabilities that would prevent the person from working.

“I will not sign my name, MD, on this,” Dr. Novia recalled telling the official. He said he was cited for being “offensive and intimidating” and fired. Dr. Novia can’t recall details of the case, he
said, but it was outside his area of specialization.

Two other doctors also said they were pressured to award benefits in cases where they were reluctant. Supervisors told them that certain ailments should be considered "severe," even if the doctors disagreed.

Social Security Administration spokesman Mark Hinkle would not comment specifically on Dr. Novin or other doctor's cases. But he said the changes in Baltimore were likely to speed up the process for analyzing benefit requests, and are "providing the agency with a more accurate and cost-effective business process."

Mr. Hinkle added: "The decisions are timelier—and all would agree that is a good thing—but this does not mean we are sacrificing quality for 'speed.' It's a balance."

When it introduced the new policies, agency officials began reviewing more of the medical consultants' work and found that some didn't fully understand SSA policy or properly explain their medical opinions. Mr. Hinkle said the agency stepped up training and other guidance, but "some did not improve and some resent our efforts."

Mr. Hinkle said the new system would put doctors in a better position to consider whether multiple health issues on a single case meet the criteria for a disability. He added that specialists were available to review any case if a doctor requests it.

The new policies in Baltimore had already been adopted in other states several years ago and doctors were happy with the results, supporters of the changes said.

But some doctors have complained to the Social Security inspector general that they have been pressured to change their medical opinions to conform to targets or goals set by SSA officials, and they feared they would be fired if they resisted, according to investigations conducted by the inspector general.

In February 2010, the inspector general, as part of a probe investigating complaints by a doctor, discovered a doctor in the Alabama disability determination office who approved between 80 and 100 decisions a day. Another Alabama doctor signed off on 30 cases an hour after performing only a " cursory review of each case." The investigation said several doctors complained of pressure from superiors to approve a higher number of applications to meet statistical goals.

The Social Security Administration, in a response to the investigation, said it planned to make certain changes, but defended the Alabama office, saying it "excelled" in "performance standards on timeliness and accuracy rates."

The federal disability system is designed to help people who can no longer work. For many, it represents the social safety net of last resort. Successful applicants receive a monthly stipend and access to federal health-care programs, often for life.

Through a combination of high unemployment, an aging population and an uneven process for awarding benefits, the disability system is under strain and could run out of reserves within six to seven years, say budget experts. That would make it the first major federal entitlement program to go bust in recent history. Applications and appeals, meanwhile, are accumulating in a giant backlog, in part because of the deep and lasting economic slump.

It's a toxic combination. The agency is under political pressure to reduce the backlog. But its efforts to do so—such as revamping medical procedures—are, in some ways, compounding the system's woes, said several doctors.


The disability application process has many layers, including hundreds of state-based field offices that accept applications and administrative law judges who weigh appeals.

In addition, the Social Security Administration spends millions of dollars each year on more than 2,000 medical consultants who scour the medical records of Americans who believe they have a disability so severe they can't work. Most doctors work for the state agencies that administer the program and are sometimes the only people with medical expertise to review claims. Others, like those in Baltimore, contract directly with the Social Security Administration.

Many medical consultants are retired or semi-retired doctors seeking additional income and working under contract, meaning they can be fired with little cause.

The Baltimore office is consi-
ered the flagship, according to several doctors and John Delpaine, who oversaw medical consultants there before retiring in December. In its procedures and structure, Mr. Delpaine said, the office sets the standards for offices throughout the U.S.

As an application backlog grew over the past decade, Social Security Administration officials worried that doctors were a cause. In some offices, different doctors would review separate medical issues of an individual applicant. A patient with a knee injury and cancer, for example, would be reviewed by an orthopedist and an oncologist. With 3.2 million people trying to enter the program this year, such duplication became problematic.

Earlier this year, SSA bosses began pressing doctors to move cases more rapidly, designing a “holistic” process requiring one doctor to review each case, according to a document outlining the overhaul and reviewed by The Wall Street Journal.

Those uncomfortable in a particular specialty could brush up by taking short refresher courses. Doctors in Baltimore who didn’t have a background in blood disease, for example, could take a one-hour seminar.

The approach in Baltimore has drawn critics. William Bunn, 47 years old, a truck driver from Peoria, Ill., found his disability claim rejected, in part, on the recommendation of a retired pediatrician.

Mr. Bunn was diagnosed with small-fiber neuropathy in 2006, a type of nerve disorder that primarily affects older people. Mr. Bunn, who began suffering from pain and numbness in his legs, said he couldn’t drive a truck with his condition and quit his job. His application was supported by two private doctors. But it was rejected after two reviews by the Illinois Bureau of Disability Determination Services, one of which was performed by the pediatrician.

His appeal took more than two years. During that time, the family of four had their two cars repossessed and had to rely on food stamps for groceries.

William Wombacher, Mr. Bunn’s Peoria attorney, objected to the pediatrician’s review when the case was heard by an administrative law judge. The judge, in a rare move, awarded benefits on the spot.

Mr. Bunn said the extended wait brought him “a lot of heartache and misery.”

The SSA’s Mr. Hinkle wouldn’t comment on the case. But, he said, “Just because one doctor works on a case and makes the decision on that case does not mean that a specialist wasn’t consulted.”

The Social Security Administration has tried previously, with limited success, to improve its medical screening. In 2005, it proposed creating a Federal Expert Unit, which would spearhead a national network of specialists to better align expertise to cases.

“We want to ensure that each case is seen by the right medical eyes,” then-SSA commissioner Jo Anne Barnhart told Congress in 2006. In her testimony, she noted that, at the time, 20% of disability applicants had musculoskeletal problems, but just 2.5% of medical consultants were orthopedists.

The expert unit was never created. SSA officials said they didn’t realize how costly it would be to set up a network of specialists and needed more time to study the idea.

In the past few years, a number of senior SSA officials began pressing the Baltimore office to abandon its reliance on medical “specialists,” said Mr. Delpaine, who oversees the doctors there.

But he said he “kept them at bay.” His 39-year tenure within the Social Security system impressed on him that specialists played a vital role. When he stepped down in December, the changes were almost immediate.

“They think that a doctor is a doctor,” he said, “I don’t think they have an understanding or an appreciation of what a specialist’s input can add.”

Phil Gambino, an assistant deputy commissioner at the SSA, said the generalist approach has been used in other states for more than a decade. “Mr. Delpaine’s assertion is wrong,” he said, “and calls into question his credibility on the issue.”

Mark Isaacs, former chief of psychological services at Spring Grove Hospital in Catonsville, Md., who is known as an elder statesman of the program, said “the whole atmosphere became charged with tension” after the changes earlier this year.

Mr. Isaacs, a 25-year veteran of the agency, watched as his colleagues, one by one, stopped coming to work. After Dr. Toro, the neurologist, quit his post in April, several others followed.

“So we were asked to go,” Mr. Isaacs said. “Others went because they had a big argument over their medical opinion not being accepted. Others left because who the hell needs all that tension and anxiety?”

Arguments with managers escalated over the summer, with some doctors getting into heated public confrontations with Social Security officials for either ignoring their medical opinion or pressuring them to change it, several doctors said.

In late September, Mr. Isaacs received a critique from one manager questioning the quality of one of his reviews. He wouldn’t give details of the case, but said the critique was “unreasonable.” He resigned.

Mr. Hinkle of the SSA wouldn’t comment on the allegations by doctors. He said the 45 people who left the agency this year departed for a number of reasons, including the new pay structure, health or family issues, or performance problems.
Two Lawyers Strike Gold In U.S. Disability System

By Damian Paletta
And Dionne Searcey

Lawyers Harry and Charles Binder began representing applicants for Social Security disability benefits in the 1970s, when the field was a professional backwater. Last year, their firm collected $88 million in fees for guiding clients through the system, government data indicate, making it the nation’s largest Social Security disability advocate by far.

“We’ll deal with the government,” a cowboy-hatted Charles Binder proclaims in his firm’s ubiquitous television ads. “You have enough to worry about.”

Having firms like Binder & Binder deal with the government was supposed to be part of the solution for a federal disability-insurance system staggering under a growing backlog of cases. The Social Security Administration figured cases would move through the pipeline faster if more claimants were guided by experts. So in 2004 the agency and Congress relaxed rules governing representation, making it easier for nonlawyer advocates to get paid. Binder swiftly hired lower-paid nonlawyers to handle cases, ramped up advertising and began processing far greater numbers of clients.

The rise of such specialty firms now is testing the system in new ways.

Kenneth Nibali, a top agency disability official before his retirement in 2002, says the way firms are paid could encourage them to push boundaries in how they craft appeals. The firms collect fees only if they win, and at the hearings where decisions are made, there are no government lawyers pushing back against applicant claims, leaving it solely up to an administrative law judge to sniff out misleading applications. “Does it raise questions about whether we are getting the most objective information? I think that’s a legitimate issue,” says Mr. Nibali.

Binder & Binder has been reprimanded by the Social Security Administration for backdating documents, and the agency is investigating whether it forged signatures of ex-employees. Five former Binder employees said in interviews that staffers routinely withheld from government submissions medical records that they believed to be potentially damaging to client claims. The firm had a system, they said, that used red stickers to highlight unfavorable information in client files, and that material often would be left out of court submissions.

In a May 4, 2005, memo sent to “lawyers, writers, and folks who review meds,” or medical records, Charles Binder wrote that a general principle was, “if it is not harmful to the client, it should be submitted.” The words “not harmful” appear in bold letters.

The 2004 federal law that opened the door for greater participation by nonlawyers also stipulated that applicants or their advocates must not omit from government submissions “a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits.”

The Binder brothers declined to comment for this article. A person close to management acknowledged that the firm labels its records with colored stickers, but said that it doesn’t withhold “material facts” from court submissions.

Judges long have complained that the Social Security Administration should have another official at the hearings to serve as a counterweight to the people seeking benefits for claimants, which they say would make the process more fair. Judges are obligated both to defend the government’s pool of disability money and to make sure deserving applicants receive benefits, noted Randall Frye, head of the Association of Administrative Law Judges, in a letter to Congress in July. He said the “SSA uses a model unheard of in the outside-land to find facts in a judicial-type setting.”

The Social Security Disability Insurance system is intended to provide a safety net for people who no longer can work due to a physical or mental condition. Those who qualify receive a monthly stipend and access to federal health-care programs, often until they turn 65 and Social Security retirement benefits fully kick in.

High unemployment and an aging population have left the system under severe financial pressure. The number of people collecting benefits rose to 10.6 million in November, from 6.9 million at the end of 2001. Budget experts say the program could exhaust its reserves within six years, making it the first major entitlement program to do so.

The greater involvement of claimant advocates like Binder, along with pressure on judges to move cases faster, has helped reduce the average time to clear a case to 380 days, from 514 in 2008. But the number of pending appeals continues to mount.

At the end of September, 771,318 people were waiting to have cases heard, compared with 705,367 one year earlier, and 463,052 in 2002.

Many cases are handled by small law firms or legal advocates for the poor, which generally have modest client rosters and offer more personalized service than bigger firms, according to judges, lawyers and claimants. Other firms have built large national practices similar to Binder’s, including Disability Group Inc. of Santa Monica, Calif.

Hauppauge, N.Y.-based Binder, which has offices in a dozen states, advertises heavily to attract clients, spending more than $20 million on TV ads in the past year, according to Nielsen. Between 2001 and 2010, it represented about 200,000 clients, according to records from a recent lawsuit stemming from a dispute.
Long Road | The Social Security Disability Insurance benefits application process

1. A person’s initial application for Social Security Disability Insurance benefits begins on the phone, over the Internet or in person at a Social Security Administration office.

Federal SSA office

Applications often are farmed out by the SSA’s federal office to a state office, where they are reviewed by an examiner and medical expert, who make benefit decisions.

State office

2. If the initial application is denied, claimants can request a second review. The application is sent to a new examiner and medical consultant.

If not approved, APPEAL

Odds of winning range from 25% to 65%, depending on the state.

If not approved, APPEAL

3. If benefits are denied again, applicants can go to the SSA’s Office of Disability Adjudication and Review, where administrative law judges hear appeals. Most applicants are represented by lawyers or nonlawyer advocates. Applicants can wait a year or more for a hearing.

If not approved, APPEAL

Odds of winning range from 13% to 99%, depending on the judge.

If not approved, APPEAL

4. If benefits are denied a third time, applicants can appeal by suing the Social Security Administration in U.S. district court.

If not approved, APPEAL

5. If benefits are denied again, applicants can appeal by suing the Social Security Administration in U.S. district court.

Between 2001 and 2010, Binder & Binder represented about 200,000 clients.

In a January 2009 appeal, he told an administrative law judge he stopped working as a union carpenter because “I wasn’t getting along with a lot of people and I was getting a bad reputation, like I was losing control of, I guess, my nerves,” according to records from a later federal-court hearing. The administrative judge, citing one doctor’s 2007 conclusion that he was “in remission,” turned him down. Mr. Lawler hired Binder to appeal.

Last month, a federal district judge in Brooklyn vacated the decision, saying earlier rulings relied too heavily on the 2007 doctor’s report, over other doctors who offered contrary evidence.

“I was not taken care of by them,” says Mr. Lawler about Binder. “I just stayed home and they called me up and told me they won the case.”

The cap on legal fees has made such work financially unattractive for many lawyers. But specialty firms like Binder have figured out a way to make it lucrative.

In 2010, a $1.4 billion slice of the disability awards paid by the Social Security Administration under its primary disability program went to disability advocates as fees, up from $425 million in 2001. The $88 million the Binder firm collected last year was more than triple the $26 million it got in 2006, according to data obtained under a Freedom of Information Act request. Direct payments to Charles Binder, who is 61, totaled $22.8 million last year.

In 2010, the brothers sold a large stake in their company to a division of H.I.G. Capital, a Miami-based private-equity firm, for an undisclosed sum. H.I.G. declined to comment.

Several administrative law judges say Binder’s business model is based on volume. Anthony Washington, a former Binder case manager in New York, describes the operation as “like a warehouse” with the goal of seeing “how much money they can make.”

Some judges said in interviews that the firm has the practice down to a science, creating a model that many competitors are working to mirror. Other judges said they have chastised the firm’s employees for submitting incomplete files or for introducing themselves to their clients only five minutes before a hearing.

To prepare for appellate hearings, lawyers frequently seek to bolster the cases by supplementing the case record with additional medical reports. Although the 2004 law obligates claimant advocates not to omit material information, the Social Security Administration doesn’t have a definitive policy about what should be submitted. Agency
Binder’s Boom

In recent years, Binder & Binder has hired lower-paid nonlawyers to handle Social Security disability cases, ramped up advertising and begun processing far greater numbers of clients.

<table>
<thead>
<tr>
<th>Fees' paid to Binder &amp; Binder by Social Security Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td>$100 million</td>
</tr>
<tr>
<td>$75 million</td>
</tr>
<tr>
<td>$50 million</td>
</tr>
<tr>
<td>$25 million</td>
</tr>
<tr>
<td>$10 million</td>
</tr>
<tr>
<td>$5 million</td>
</tr>
<tr>
<td>$2.5 million</td>
</tr>
<tr>
<td>$1 million</td>
</tr>
</tbody>
</table>

2010 fees to the top 20 representatives of applicants for Social Security disability benefits

Charles Binder
$22,817,430.62

Average for top 10% of representatives: $396,992.94

Source: Social Security Administration via Freedom of Information Act

*Includes payments to affiliates

Binder & Binder co-founder Charles Binder in one of his firm's TV ads.

spokesman Mark Hinkle says firms have to be “forthright” with the agency.

Robert E. Rains, a law professor at Pennsylvania State University and director of the school’s Disability Law Clinic, says his view on the 2004 law is that medical records that directly pertain to disability claims must be turned over, although he adds that “Social Security has been admittedly less than clear on this point.”

The five former Binder employees said that once Binder collects the additional medical records, employees affix colored stickers to the documents. According to the former employees, green ones go on documents that either don’t need further review or will help clients win benefits, such as a report on a scan showing an injury; yellow ones on material that might give pause to judges, such as doctor references to jail time; and red on material such as references to current substance abuse or a doctor’s opinion that a person can still work, walk long distances or lift heavy things.

The five former employees said records with red stickers often were not handed over to the Social Security Administration. Shawn Beckett, a lawyer at Binder from April 2008 through February 2009, said he was instructed by a superior “that anything that was not favorable should be ‘red’ and not turned into the record.” He said he felt uncomfortable withholding records and didn’t do so, but said that many colleagues did.

Mr. Beckett and one other former employee said they reviewed applications they believe would have been denied had all of the information been presented. Mr. Beckett said he recalled cases in which doctors said the person applying for benefits was capable of returning to work, but that information was withheld from the application.

Mr. Beckett said he was fired by Binder in 2009 for taking on clients outside the firm’s auspices.

Two other former Binder lawyers who said they were not fired and did not work with Mr. Beckett also said that medical information was withheld that would have undermined clients’ cases, as did two other former employees who weren’t lawyers. Three of those former employees said supervisors often made the decision about which medical information was withheld. It isn’t clear whether any Binder clients were aware of the practice.

According to the person close to Binder management, those who received the 2005 memo from Charles Binder—the one suggesting that a medical record generally should be submitted “if it is not harmful to the client”—“understood that ‘harmful’ referred to incomplete, incoherent, illegible, misappropriated or potentially immaterial medical evidence in need of further review, clarification or completion before being submitted.”

The Social Security Administration says its job isn’t to police firms that represent disability applicants. “We are not so much in the business of, quote unquote, monitoring law firms,” says the agency’s commissioner, Michael Astrue. “We are in the business of monitoring the quality of the legal services provided to our claimants in our court—rooms.”

Mr. Hinkle, the Social Security spokesman, says the agency’s inspector general, not the agency itself, is responsible for enforcing the 2004 law. A spokesman for the inspector general says investigators had “not received allegations of law firms withholding material information from SSA, but were we to receive such allegations, we would review them as we would any allegation.”

The agency has complained to Binder about some of its practices. On April II, it instructed Charles Binder to stop attaching “privacy statements” to disability appeals—which could have delayed the agency the right to speak to various third parties, such as an applicant’s friends and neighbors. Several administrative law judges said the firm has since stopped the practice.

Mr. Astrue, the agency’s commissioner, said in an interview that the agency had reprimanded Binder for backdating documents, although he declined to elaborate. Dates on disability applications can be crucial to meeting deadlines and determining fees.

In addition, the agency is investigating whether Binder forged the signatures of some employees who had left the firm, said one person with knowledge of the probe. The alleged practice might have been used by Binder to petition the government for fees after it wins an appeal, even if the employee who represented the client no longer works at the firm, that person said.

Binder has told officials that employees signed “power of attorney” forms that gave Binder the ability to sign their names, people familiar with the matter said. The agency spokesman said he couldn’t “confirm or deny” the existence of an investigation.

Many Binder clients say they appreciate the firm’s ability to get results. Michael Plouffe, 31, of Old Lyme, Conn., had been trying for four years to get a claim approved based on sclerosing mesenteritis, a disease that causes inflammation of the small intestine. His pain was so bad, he says, that he quit his job as an emergency medical technician in April 2007. His application for disability benefits also noted he suffered from depression.

He says his case was a tricky one because he had a history of
substance abuse, mostly painkillers. He contended it was tied to his pain, rather than an addiction, a position past judges deemed subjective and cited in denying him benefits.

Binder represented him in a series of appeals that eventually landed the case in federal district court in Connecticut.

Binder provided medical records that contended the substance abuse was caused by Mr. Plouffe being “wracked with intense physical pain, obsessed with trying to numb it,” according to the federal court records. On Dec. 1, the federal court awarded him benefits.

“It was a long tough battle, and they stuck with it for nearly five years for me,” says Mr. Plouffe, who says he’s been drug-free in recent years. “They were very persistent.”
Jobless Tap Disability Fund

BY DAMIAN PALETTA
AND DIONNE SARGEY

The prolonged economic slump has fueled a surge in applications for Social Security disability benefits, with many desperate Americans seeking refuge in the program as a last resort after their unemployment insurance and savings run out.

Two new studies, one of them co-authored by the White House’s top economist, show a correlation between when people seek Social Security disability payments and when their unemployment benefits are exhausted. Some economists say that connection shows many people now view the system as an extended unemployment program.

The Social Security Disability Insurance program was created in the 1950s to provide financial support and health care for Americans no longer able to work because of injury or ill health, covering them until they get better or retirement benefits kick in. These days, an influx of applicants with moderate, potentially manageable health issues is contributing to a growing backlog of cases and adding to financial stress on the system.

Because many people who are awarded disability benefits stay in the program until they qualify for retirement benefits, the phenomenon has the potential to burden the system beyond the current economic slump. There are 10.6 million Americans collecting disability, up from 7.2 million in 2002.

“To a very large extent, it is our big welfare program,” says David Autor, an economics professor at the Massachusetts Institute of Technology and an expert in the federal disability program. In congressional testimony this month, Stephen Goss, chief actuary of the Social Security Administration, acknowledged that the increase in applications was related to the economy, but suggested that was to be expected. “When employment is good—when employers are trying to employ lots of people—people with impairments, like everyone else, find it easier to find a job,” he said.

Ellen Marino, 62 years old, turned to the program out of desperation. In a recent interview, she said was pressured in 2008 to take a buyout after working 17 years in phone-directory sales at AT&T Inc. and related companies, and then spent months looking for work in both Florida and Utah. While she looked, she collected $225 a week in unemployment benefits.

But jobs in Florida were scarce, she said, and her husband was struggling in his real-estate business. To save the money the couple was paying for rent in Florida, they left the state and moved to a vacation condo they owned in Park City, Utah. As time went on, she became less selective about the jobs she applied for, at one point applying to be a Wal-Mart manager and for work at a ski resort.

Ms. Marino wears hearing aids and has had hearing problems nearly all of her life, she said, but she didn’t think that would prevent her from working. “I think the poor economy had a lot to do with not getting a job,” she said. “I have a good education and good experience and, OK, well, maybe I can’t hear as well as other people, but I’ve had that problem for years and always have been able to survive.”

In June 2009, her unemployment benefits ran out and she applied for Social Security disability benefits. “I applied for disability only because I didn’t know what else to do,” she said.

“I knew we couldn’t live on no money, and I had to do something.”

Mark Duggan, a University of Pennsylvania professor who has studied the relationship between the unemployment rate and applications for benefits, compared data from this year with numbers from 2007, when the unemployment rate was much lower. He estimates that the higher unemployment rate this year accounts for 3,000 additional people applying for benefits each week.

A recent study by Boston College research economist Matthew Rutledge, found that “jobless individuals are significantly less likely to apply” for disability when unemployment insurance is extended by Congress and “significantly more likely to apply when unemployment payments are ultimately exhausted.”

Mr. Rutledge, using government data, found a spike in the likelihood someone would apply for disability benefits in the month his or her unemployment benefits expire, compared with previous months.

His findings are similar to those contained in a paper released earlier this month by the

Moving in Tandem
States and territories with the highest unemployment rates have seen a significant rise in applications for Social Security disability benefits.

<table>
<thead>
<tr>
<th>State</th>
<th>2002</th>
<th>2005</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Puerto Rico</td>
<td>7.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nevada</td>
<td>7.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td>7.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td>11.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rhode Island</td>
<td>11.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Number of persons out of every 1,000 in population applying for disability benefits

Unemployment rate

Sources: WSJ research; Labor Department; Social Security Administration
Note: rates are averages for fiscal years.
White House. That paper, which called for Congress to extend unemployment benefits, released preliminary research from White House Council of Economic Advisers Chairman Alan Krueger and Columbia Business School instructor Andreas Mueller.

Their research, based on surveys of unemployed workers in New Jersey, looked at behavioral patterns of the jobless, including those without much savings to fall back on. The researchers found that 10% of jobless workers age 50 to 65 with access to less than $5,000 were likely to file for disability benefits when their unemployment benefits expired, while 1% of such people sought benefits when they had 50 weeks of unemployed benefits left.

Available government data makes it difficult to determine what happens to the jobless once they apply for benefits. Many might have a hard time convincing state or federal examiners they should qualify for disability benefits, particularly if they were recently collecting unemployment benefits and had left their jobs because of layoffs, not an injury or illness.

The administrative law judges who handle the appeals filed by applicants who are turned down for benefits are supposed to take into account local economic conditions, which are assumed to have a bearing on how difficult it would be for a person with health problems to land a job. (An applicant’s age and educational background also are considered.) For example, judges tend to be more likely to award benefits if an applicant lives in an impoverished area where jobs are scarce or if his or her work experience is in a field where jobs are minimal, several judges say.

In the 2007 fiscal year, as the economy started to sour, 2.5 million people applied for benefits. In fiscal 2011, which ended Sept. 30, 3.3 million tried their luck. The primary disability system paid out $130 billion in benefits in fiscal 2011; it is running a roughly $4 billion monthly deficit and is projected to exhaust its reserves in 2017.

The increase in applications “tells you that a lot of those folks understand how easy it is to get disability, even if they believe they could work if there were jobs available,” says Randall Frye, a Social Security administrative law judge in Charlotte who heads the Association of Administrative Law Judges. “It’s kind of like a last option for some people.”

In a potentially troublesome development, although the unemployment rate has fallen in many states during recent months, disability applications in those states have continued to climb, including in big states such as Illinois, Indiana and New Jersey.

Mr. Goss, the agency’s chief actuary, told Congress earlier this month that the 2008-09 recession led to a higher rate of “disability incidence” than in any other period except for the economic downturn in 1975. The disability-incidence rate measures when healthy workers become “newly disabled.”

According to Mr. Duggan of the University of Pennsylvania, the likelihood that beneficiaries will re-enter the job market is relatively low, which means that a chunk of the population is unlikely to contribute to the economy any longer in a significant way.

“That’s very unfortunate for them and for the economy at large, in the sense they are not generating earnings and tax revenue,” he said. “A lot of these folks, their health may not be great, but if they had a good economic opportunity, they might try to manage their condition and work.”

Ivy Quinton, of Salem, N.J., applied for disability when her unemployment benefits ran out in 2009. Ms. Quinton, 36, had quit her job working for a private van operator, she said, when joint pain prevented her from doing the job. She said her pain worsened and she was diagnosed with lupus, an autoimmune disorder, as well as rheumatoid arthritis.

Her initial goal was to find a job she could do while managing her health problems, she said, but “there are not too many employers who want to hear you’re OK one day but not another day.”

She said she tried to start her own business making body oils and lotions, but that carpal tunnel syndrome made her unable to fully use her hands.

She was turned down for disability benefits twice. The first time, she said, the Social Security Administration said her condition wasn’t severe enough to prevent her from working. The next time, she said, it was because she didn’t provide enough documentation of her health problems.

“There were times where I’d break down and be crying, and it was coming close to me being homeless,” said Ms. Quinton, who at one point moved in with her parents and asked them for money.

Kevin Liebemann of the nonprofit Legal Services of New Jersey handled her appeal before an administrative judge. In October, Ms. Quinton learned she had been granted benefits.

Disability benefits average roughly $1,000 a month, plus access to government health-care programs Medicare and Medicaid. The application process can take years to navigate—a problem for applicants who lose their unemployment benefits and need money immediately.

“People do this out of desperation,” says MIT’s Mr. Autor. “It’s the last thing people want to do. It’s not living the high life, but when people have exhausted their alternatives, it’s the only thing left.”

Ms. Marino, the former AT&T employee, was denied benefits twice before she retained a lawyer to represent her before a Social Security judge in Salt Lake City. This summer, she was awarded benefits, and she now collects $1,700 a month.

“I was very fortunate they decided to give me the disability,” she said. “It helps a lot.”