

SOCIAL SECURITY & YOU

FROM THE OFFICE OF ATTORNEY WILLIAM CRAWFORTH

SPRING 2016

Message From Attorney Crawford

I WAS WRONG... AND I'M GLAD

For most of 2015 I told clients to beware the upcoming insolvency of the Social Security Disability Trust Fund, which was projected to be under water by late 2016. An act of Congress was needed to address the projected insolvency, which required reallocation of current FICA taxes between the Disability Trust Fund and the Old Age and Survivor's Trust Fund. The OAS Trust Fund is facing its own projected insolvency in 2032 or 2033.

Given the dysfunction and partisanship displayed in Washington these days I was highly skeptical that both houses of Congress, especially the House of Representatives, could agree on anything, much less such a "hot potato" issue as transferring money from retirees to "disability bums", as some have called those receiving Disability and SSI benefits.

I am glad to admit I was wrong. In just a few days in November Speaker of the House, John Boehner, R-OH, announced his resignation, not only from his post as Speaker, but from Congress altogether. And then, in an effort to "leave the barn clean", as he put it, Speaker Boehner got the Bipartisan Budget Act of 2015 passed. It was swiftly signed into law by President Barack Obama.

The Act provides a budget outline for the next 2 fiscal years, raising the debt ceiling

in the process into early 2017, reducing the risk of a government shutdown until after the 2016 elections and avoiding a significant increase in Medicare Part B premiums. AND it reallocated current FICA taxes and the trust funds in such a way that solvency of the Disability Trust Fund is extended through 2022.

This removes the threat of a nearly 20% cut in Disability & SSI benefits for the nation's disabled.

There is certainly more work to be done to shore up both trust funds. This could be easily accomplished with a couple easy fixes, such as eliminating the ceiling on FICA taxes for Social Security, as is done with Medicare, and a continued, gradual rise in the retirement age (especially the early retirement age).

Another possibility is tweaking the earnings threshold of \$1,090 where recipients lose their benefits. This strict disincentive to test the waters and return to work could be modified in a graduated way. For example, persons making \$600 or \$700 would keep some of their benefits, similar to the way it works for early retirees who continue to work and lose a dollar of benefits for every two dollars earned.

Social Security has certainly evolved over the years since President Roosevelt signed it into law in 1935. The first cost of living adjustment, (COLA) was made

in 1950. Benefits for disabled workers was first added in a limited way in 1956. Early retirement, at a reduced rate, was added in 1961. The withholding rate was raised to 6.2% from 4.95% in 1977. The age for full retirement benefits was gradually raised from 65 to 67 in 1983. And as of 2000 those at full retirement age were able to collect full benefits regardless of earned income.

As the Social Security Administration celebrates its 80th anniversary the future looks brighter than it has in some time for Disability & SSI recipients.

NO COLA FOR 2016

The Social Security Administration has announced there will be no Cost of Living Adjustment in 2016 for the nearly 65 million Americans drawing Social Security disability, retirement or SSI benefits. This is because there was no inflation between the third quarter of 2014 and 2015 as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

This means there will not be an increase in the maximum of earnings subject to the Social Security tax, as well as the retirement earnings test amounts.

More information can be found at www.ssa.gov.

ATTACKS ON SOCIAL SECURITY DISABILITY CONTINUE

Despite the changes made by Congress last fall to stave off a 20% reduction in disability benefits the news is not all good.

In the past couple of years members of Congress, fueled by the media (from *The Wall Street Journal* to National Public Radio) and one particular rouge ALJ in West Virginia, have spread prejudicial and inaccurate information. These attacks have continued, including one particularly glaring example in *Crain's Detroit Business* last July.

The headline on the article "Disability Rolls Surge In the State" is inflammatory enough. But the article either intentionally or inadvertently implies that persons can draw both Disability Insurance Benefits (DIB), based on their earnings, and SSI benefits, which are for those who are uninsured for DIB or earned so little in their working years that their DIB amount is below the SSI amount of \$733 per month.

Even the accurate information, such as the number of people who have left the labor force vs those who have been granted DIB or SSI benefits is done in a pejorative way. Comparing Michigan's #s to those of other states ignores the effect the death of the Rust Belt economy has had on older workers. Those with limited educations and skills have tended to concentrate in states with transitioning economies.

The article cites a study by one professor at George Mason University to support the proposition that federal criteria "in recent years" have given too much weight to age, English language proficiency, education & other "non-medical" data (presumably work experience). In fact, Social Security's Medical-Vocational Guidelines (usually called the "grids") have been factored into the disability evaluation process for several decades.

The article went so far as to identify several judges with their respective approval

& disapproval rates without analyzing possible reasons for the discrepancies, such as the area covered by the ODAR.

The article certainly was accurate in one respect: the glut of television advertising by attorneys seeking disability cases.

The fact remains, however, that the average DIB or SSI recipient receives a bit more than \$1,100 the vast majority would dearly love to be able to return to work.



OBAMACARE HEAR TO STAY?

With a new president guaranteed to be inaugurated next January there is no assurance the main tenants of the Affordable Care Act, commonly known as Obamacare, will survive the next couple years. However, last year the Supreme Court, again weighed in on a major portion of the law and upheld it.

In a 6-3 ruling the SCOTUS ruled that the subsidies the 8.7 million people received in 2015, making health insurance affordable, do not depend on where they live, as contended by opponents. Once again, Chief Justice, John Roberts sided with the more liberal court members. This time he was joined by Anthony Kennedy, who often provides the swing vote.

The ruling has the effect of upholding subsidies for insurance gained through the federal marketplace, even in states which have refused to expand Medicaid, all of whom were governed by Republicans. Michigan is one of the states that did expand Medicaid, even though Governor Snyder is a Republican.

With the recent election of a Democratic governor in Louisiana, it too, embraced expanded Medicaid.

SSA TARGETS BACKLOG

At the recent conference of the National Organization of Social Security Claimant's Representatives (NOSSCR) the Deputy Commissioner of the Social Security Administration addressed the hearing backlog at the ODARs (currently in excess of 15 months and rising).

SSA's goal is for the backlog to continue to fall in the fall of 2016 and be resolved by 2020. Resolved means a waiting time of 9 months.

One part of SSA's strategy was the hiring of 250 new Administrative Law Judges in Fiscal Year 2015. Only 200 were hired and with the number of retirees there was only a small net increase in the ALJ corps.

The goal is for SSA to have 1,800 ALJs. Fortunately, the recently passed Bipartisan Budget Act (see *Message from Attorney Crawforth*) also requires The Office of Personnel Management (OPM) to offer an examination for prospective ALJs by April 1, 2016.

SSA has other initiatives to address the backlog involving Senior Attorneys or Attorney Advisors. These include the Virtual Screening Unit (VSU). About 100 attorneys in various ODARs around the country screened the electronic folders of cases identified by the ODAR, nationally, to see if they can be paid without hearing. The National Screening Unit (NSU) aims to restrict Attorney Advisor decisions to cases identified as having the potential for an on record award. Finally, the National Adjudication Team (NAT) is a group of Attorney Advisors on a national level which reviews selected cases for an "on record" decision. One of Attorney Crawforth's clients received a Favorable Decision from the NAT late last year.

STUDIES, STUDIES, STUDIES

It's time again for a review of recently published studies regarding issues related to health and disability. As always, some are interesting, some are puzzling and some are downright ridiculous.

Since we all have to eat, food, diet and obesity remain prime targets for researchers. The University of Michigan published a study earlier in 2015 which focused on "food addiction". To no one's surprise, foods such as chocolate, pizza & French fries are among the most addictive. Unprocessed foods, such as salmon and brown rice, were not associated with addictive eating behavior. No surprise there, either.

A study reported last spring in the AARP Bulletin noted that nutritionists have concluded that eating cholesterol-heavy foods, such as eggs and shellfish are okay for healthy people because cholesterol in food does not necessarily raise cholesterol in the blood.

A study conducted by the National Weight Control Registry showed that successful dieters have 5 practices in common: They eat breakfast, weigh themselves regularly, watch no more than 10 hours of television per week, take a brisk walk for an hour daily and limit calories and fat.

A study published in the journal *Cancer Epidemiology, Biomarkers and Prevention* concluded that people who drink two or more sugary soft drinks weekly are 87% more likely to get pancreatic cancer. Researchers have long-cautioned that cancer cells love sugar.

A University of Colorado study found that resveratrol, a compound found in grape skins, helps prevent cancer by killing damaged cells before they replicate. And yes, red wine counts.

We've heard for years the barbecuing meat to the point of charring increases the risk of cancer. Now a Kansas State University study (middle of cattle-country) shows

that risk can be reduced 87% by marinating the meat for at least an hour with rosemary and thyme.

A study reported in AARP The Magazine found that Brazil nuts lower the risk of bladder cancer in women. Researchers think the antioxidant, selenium, found in the nuts is why.

Researchers at Rush University in Chicago have concluded that food in 4 different groups reduced cognitive decline. They are 1) olive oil, green tea & leafy greens, such as broccoli, spinach & kale. 2) beets, avocados & tomatoes. 3) nuts (especially walnuts), curcumin & pomegranates. 4) fish, blueberries, grapes, coffee & dark chocolate.



The *Journal of the American College of Cardiology* reports that women who don't smoke, have a normal body mass index (BMI), got at least 2.5 hours of exercise per week, and watched an hour or less of television had a reduced risk of heart disease.

A Harvard School of Public Health study found that persons who eat canned foods, such as vegetables and soups, have an increased risk of cancer. This is because of a chemical in the lining that coats the inside of the cans.

A University of Michigan Comprehensive Cancer Center study found that persons with head and neck cancer who take antacids for acid reflux may have better overall survival rates.

American Cancer Society research shows that colon cancer rates are highest in 3 regions of the U.S.: the lower Mississippi Delta, west-central Appalachia and eastern Virginia & North Carolina. The results may be explained by the high levels of poverty, lack of health insurance and difficulty getting screenings.

A study released by American Cancer Society researches last fall showed

fewer Americans are dying from heart disease, cancer, stroke, diabetes and injuries. However, deaths from chronic obstructive pulmonary disease (COPD) are increasing.

Alzheimer's and other forms of dementia are on the rise and, thus, the focus of many studies. Sustained exercise may slow or even reverse the biological changes that cause dementia, according to research reported at a recent conference.

Researchers at the University of Alberta found that changes in molecules found in saliva are identified with changes in the brain associated with Alzheimer's.

It's been known for some time that women were twice as likely as men to get Alzheimer's but it was assumed it was due to their longer life spans. Now a study from Duke University found biological differences may be at least partially responsible. Women with memory problems declined twice as fast as men.

A study reported in *JAMA Internal Medicine* concluded that habitual use of Tylenol PM, or certain antidepressants or antihistamines, such as Benadryl, were associated with an increased risk of Alzheimer's and other forms of dementia.

A study reported in the journal, *Neurology*, found that a mentally challenging job was associated with better memory & thinking skills later in life.

Exercise has long been associated with multiple health benefits. One recent study reported in AARP The Magazine concludes that regular exercise cut the breast cancer risk in post-menopausal women by at least 10% while another concluded rigorous exercise, such as hiking or biking can reduce colon cancer risk by up to 40%.



William Crawford
-Attorney at Law-
905 W. Eisenhower Circle, Ste. 110
Ann Arbor, MI 48103

Last year was a disappointing season for the Tigers. Nevertheless, the following lucky readers of *SS&Y* won Attorney

WIN ATTORNEY CRAWFORTH'S TIGER TICKETS

A study has concluded that in order to significantly reduce the risk of heart attack or stroke the target systolic pressure should be 120, rather than 140. And taking testosterone replacement drugs could increase the risk of heart attack or stroke, according to the FDA.

Several new heart disease studies were published this year. Among those were one in the journal, *Circulation: Journal of the American Heart Association* which noted more heart related deaths occur on December 25th than any other day of the year. And third was New Year's Day. Happy Holidays, indeed!

Crawforth's upper deck box seats for a

game.

Darise from Sterling Hts.
Sharon from Ypsilanti
Bob from Shelby Twp.

Holly from Ann Arbor
Jimmy from Monroe
Ann from Warren
Brian from Pinckney

If you complete and return the entry blank you may be a lucky winner this season.

*Yes, I would like to enter to win
Tiger Tickets*

Name _____

Address _____

Telephone _____

William Crawford, Attorney at Law
905 W. Eisenhower Circle
Suite 110
Ann Arbor, MI 48103



PRSR STD
U.S. POSTAGE
PAID
ANN ARBOR, MI
PERMIT #229