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**MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE v.
ELDRIDGE**

No. 74-204.

SUPREME COURT OF THE UNITED STATES

**424 U.S. 319; 96 S. Ct. 893; 47 L. Ed. 2d 18; 1976 U.S. LEXIS 141; 41 Cal. Comp.
Cas 920**

**Argued October 6, 1975
February 24, 1976**

PRIOR HISTORY: CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISPOSITION: The court reversed the lower court, because procedures in place were sufficient to satisfy due process, and the state of persons receiving disability benefits was typically not as serious as that of welfare recipients.

CASE SUMMARY:

PROCEDURAL POSTURE: In an action where respondent had sought an evidentiary hearing prior to termination of petitioner's Social Security disability benefit payments, certiorari was granted to the United States Court of Appeals for the Fourth Circuit.

OVERVIEW: The United States Supreme Court found that respondent had not been denied procedural due process when he was not granted an evidentiary hearing prior to termination of his Social Security disability benefit payments. The district court had jurisdiction over the suit, because respondent had presented his claims for review to both the district social security office and the regional office for reconsideration, and petitioner Secretary of Health, Education, and Welfare had accepted the termination through the Social Security Administration. Procedural due process had been satisfied because respondent was not in as dire a position as that of a typical welfare recipient, and because of the myriad procedural safeguards of the process, including an evidentiary hearing before the denial of the claim became final. The public interest in limiting the procedures available was significant, given the cost of additional procedures.

OUTCOME: The court reversed the lower court, because procedures in place were sufficient to satisfy due process, and the state of persons receiving disability benefits was typically not as serious as that of welfare recipients.

CORE TERMS: recipient, evidentiary hearing, disability, termination, state agency, disability benefits, terminated, reconsideration, beneficiary, salfi, entitlement, claimant, final decision, administrative procedures, deprivation, pretermination, disabled, disability insurance, disabled worker, questionnaire, tentative, reversal, judicial review, presentation, eligibility, Social Security Act, administrative process, administrative action, constitutional claim, safeguard

LexisNexis(R) Headnotes

424 U.S. 319, *; 96 S. Ct. 893, **;
47 L. Ed. 2d 18, ***; 1976 U.S. LEXIS 141

Workers' Compensation & SSDI > Social Security Disability Insurance > Judicial Review > Jurisdiction
[HN1] See 42 U.S.C.S. § 405(h).

Governments > Legislation > Statutes of Limitations > Time Limitations
Workers' Compensation & SSDI > Social Security Disability Insurance > Judicial Review > Jurisdiction
[HN2] See 42 U.S.C.S. § 405(g).

Administrative Law > Agency Adjudication > Decisions > General Overview
Administrative Law > Judicial Review > General Overview

Civil Procedure > Justiciability > Exhaustion of Remedies > Administrative Remedies

[HN3] Several conditions must be satisfied in order to obtain judicial review under 42 U.S.C.S. § 405(g). Of these, the requirement that there be a final decision by the Secretary of Health, Education, and Welfare after a hearing is regarded as central to the requisite grant of subject-matter jurisdiction. Implicit in the principle that this condition consists of two elements, only one of which is purely "jurisdictional" in the sense that it cannot be "waived" by the Secretary in a particular case. The waivable element is the requirement that the administrative remedies prescribed by the Secretary be exhausted. The nonwaivable element is the requirement that a claim for benefits shall have been presented to the Secretary. Absent such a claim there can be no "decision" of any type. And some decision by the Secretary is clearly required by the statute.

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection
Public Health & Welfare Law > Social Security > Disability Insurance & SSI Benefits > Benefit Determinations & Payments > Cessations

Workers' Compensation & SSDI > Social Security Disability Insurance > Cessations > Notice, Hearings & Appeals
[HN4] Procedural due process imposes constraints on governmental decisions which deprive individuals of "liberty" or "property" interests within the meaning of the Due Process Clause of U.S. Const. amends. V and XIV. The Secretary of Health and Human Services does not contend that procedural due process is inapplicable to terminations of Social Security disability benefits. The interest of an individual in continued receipt of these benefits is a statutorily created "property" interest protected by U.S. Const. amend. V.

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection
Real Property Law > Eminent Domain Proceedings > Constitutional Limits & Rights > General Overview

[HN5] Some form of hearing is required before an individual is finally deprived of a property interest. The right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society. The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection

[HN6] Due process, unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances. Due process is flexible and calls for such procedural protections as the particular situation demands. Accordingly, resolution of the issue whether the administrative procedures are constitutionally sufficient requires analysis of the governmental and private interests that are affected. More precisely, identification of the specific dictates of due process generally requires consideration of three distinct factors: First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Workers' Compensation & SSDI > Social Security Disability Insurance > Burdens of Proof > Claimants
Workers' Compensation & SSDI > Social Security Disability Insurance > Cessations > Continuing Disability Standards
Workers' Compensation & SSDI > Social Security Disability Insurance > Disability Determinations > Severe

424 U.S. 319, *; 96 S. Ct. 893, **;
47 L. Ed. 2d 18, ***; 1976 U.S. LEXIS 141

Impairments

[HN7] In order to establish initial and continued entitlement to disability benefits a worker must demonstrate that he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. To satisfy this test the worker bears a continuing burden of showing, by means of medically acceptable clinical and laboratory diagnostic techniques, that he has a physical or mental impairment of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work.

Governments > Federal Government > Employees & Officials

Public Health & Welfare Law > Social Security > Disability Insurance & SSI Benefits > Benefit Determinations & Payments > Cessations

Workers' Compensation & SSDI > Social Security Disability Insurance > Cessations > Notice, Hearings & Appeals

[HN8] Since a social security disability benefits recipient whose benefits are terminated is awarded full retroactive relief if he ultimately prevails, his sole interest is in the uninterrupted receipt of this source of income pending final administrative decision on his claim.

Family Law > Family Relationships & Torts > General Overview

Public Health & Welfare Law > Food & Nutrition > Food Stamp Program > General Overview

Workers' Compensation & SSDI > Benefit Determinations > General Overview

[HN9] Eligibility for disability benefits is not based upon financial need. Indeed, it is wholly unrelated to the worker's income or support from many other sources, such as earnings of other family members, workmen's compensation awards, tort claims awards, savings, private insurance, public or private pensions, veterans' benefits, food stamps, public assistance, or the many other important programs, both public and private, which contain provisions for disability payments affecting a substantial portion of the work force.

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection

[HN10] The degree of potential deprivation that may be created by a particular decision is a factor to be considered in assessing the validity of any administrative decisionmaking process under due process.

Criminal Law & Procedure > Preliminary Proceedings > Delays

Governments > Federal Government > Employees & Officials

Workers' Compensation & SSDI > Social Security Disability Insurance > Cessations > Notice, Hearings & Appeals

[HN11] The possible length of wrongful deprivation of Social Security disability benefits is an important factor in assessing the impact of official action on the private interests.

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection

[HN12] Something less than an evidentiary hearing is sufficient prior to adverse administrative action.

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection

[HN13] A factor to be considered in determining whether administrative procedures comport with due process is the fairness and reliability of the existing procedures, and the probable value, if any, of additional procedural safeguards.

Labor & Employment Law > Disability & Unemployment Insurance > Disability Benefits > Proof > Evidence

Public Health & Welfare Law > Healthcare > Services for Disabled & Elderly Persons > General Overview

Workers' Compensation & SSDI > Social Security Disability Insurance > Burdens of Proof > Claimants

[HN14] In order to remain eligible for benefits the disabled worker must demonstrate by means of medically acceptable clinical and laboratory diagnostic techniques, that he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment. In short, a medical assessment of the worker's physical or

424 U.S. 319, *; 96 S. Ct. 893, **;
47 L. Ed. 2d 18, ***; 1976 U.S. LEXIS 141

mental condition is required. This is a more sharply focused and easily documented decision than the typical determination of welfare entitlement. In the latter case, a wide variety of information may be deemed relevant, and issues of witness credibility and veracity often are critical to the decisionmaking process. By contrast, the decision whether to discontinue disability benefits will turn, in most cases, upon routine, standard, and unbiased medical reports by physician specialists, concerning a subject whom they have personally examined.

***Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection
Public Health & Welfare Law > Social Security > Disability Insurance & SSI Benefits > Administrative Hearings >
General Overview***

Workers' Compensation & SSDI > Social Security Disability Insurance > Cessations > Notice, Hearings & Appeals

[HN15] In striking the appropriate due process balance, the final factor to be assessed is the public interest. This includes the administrative burden and other societal costs that would be associated with requiring, as a matter of constitutional right, an evidentiary hearing upon demand in all cases prior to the termination of Social Security disability benefits. The most visible burden would be the incremental cost resulting from the increased number of hearings and the expense of providing benefits to ineligible recipients pending decision.

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection

[HN16] Financial cost alone is not a controlling weight in determining whether due process requires a particular procedural safeguard prior to some administrative decision. But the government's interest, and hence that of the public, in conserving scarce fiscal and administrative resources is a factor that must be weighed. At some point the benefit of an additional safeguard to the individual affected by the administrative action and to society in terms of increased assurance that the action is just, may be outweighed by the cost. Significantly, the cost of protecting those whom the preliminary administrative process has identified as likely to be found undeserving may in the end come out of the pockets of the deserving since resources available for any particular program of social welfare are not unlimited.

Administrative Law > Judicial Review > Standards of Review > General Overview

[HN17] Differences in the origin and function of administrative agencies preclude wholesale transplantation of the rules of procedure, trial, and review which have evolved from the history and experience of courts.

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection

[HN18] The judicial model of an evidentiary hearing is neither a required, nor even the most effective, method of decisionmaking in all circumstances. The essence of due process is the requirement that a person in jeopardy of serious loss be given notice of the case against him and opportunity to meet it. All that is necessary is that the procedures be tailored, in light of the decision to be made, to the capacities and circumstances of those who are to be heard, to insure that they are given a meaningful opportunity to present their case. In assessing what process is due in a particular case, substantial weight must be given to the good-faith judgments of the individuals charged by Congress with the administration of social welfare programs that the procedures they have provided assure fair consideration of the entitlement claims of individuals.

***Public Health & Welfare Law > Social Services > Disabled & Elderly Persons > Agency Actions & Procedures >
Negative Actions***

Workers' Compensation & SSDI > Social Security Disability Insurance > Cessations > Notice, Hearings & Appeals

[HN19] An evidentiary hearing is not required prior to the termination of disability benefits.

SUMMARY: Under the disability insurance benefits program of the Social Security Act, which conditions the continued receipt of benefits on the recipient's continuing to be disabled, a state agency charged with monitoring a benefit recipient's medical condition sent a questionnaire to the recipient. Although the recipient's response to the questionnaire indicated that his condition had not improved and identified medical sources from whom he had received treatment recently, the state agency, after considering information, including reports from the recipient's physician and a

424 U.S. 319, *; 96 S. Ct. 893, **;
47 L. Ed. 2d 18, ***; 1976 U.S. LEXIS 141

psychiatric consultant, informed the disability recipient that it had tentatively determined that his disability had ceased. In a written response to the letter which had included a statement of the reasons for the proposed termination and an advisement that the recipient might request reasonable time in which to obtain and submit additional information pertaining to his condition, the recipient disputed the characterization of his medical condition and indicated that the state agency already had enough evidence to establish his disability. Subsequently, the state agency made a final determination that disability had ceased, and the Social Security Administration, upon accepting such determination, notified the recipient that his benefits would terminate and advised him of his right to seek reconsideration by the state agency of the initial determination within six months. Declining to request reconsideration, the former recipient brought an action in the United States District Court for the Western District of Virginia, challenging the constitutionality of the administrative procedures established by the Secretary of Health, Education, and Welfare for assessing whether a continuing disability existed, and seeking an immediate reinstatement of benefits pending a hearing on the disability issue. Concluding that the administrative procedures of the Secretary abridged the plaintiff's right to procedural due process, and holding that prior to termination of benefits the recipient had to be afforded an evidentiary hearing, the District Court enjoined termination of the plaintiff's benefits prior to an evidentiary hearing, and the United States Court of Appeals for the Fourth Circuit affirmed (493 F2d 1230).

On certiorari (361 F Supp 520), the United States Supreme Court reversed. In an opinion by Powell, J., expressing the view of six members of the court, it was held that (1) the District Court had jurisdiction over the action under 42 USCS 405(g), which requires, as a condition of judicial review, that there be a final decision by the Secretary of Health, Education, and Welfare, after a hearing, since the plaintiff had satisfied those elements of 405(g)'s final decision requirement which necessitate that the administrative remedies prescribed by the Secretary be exhausted and that a claim for benefits shall have been presented to the Secretary, and (2) an evidentiary hearing was not required prior to the initial termination of disability benefits, the existing administrative procedures fully comporting with due process, in light of the private and governmental interests involved.

Brennan, J., joined by Marshall, J., dissented, expressing the view that the plaintiff had to be afforded an evidentiary hearing of the type required for welfare beneficiaries under the Social Security Act.

Stevens, J., did not participate.

LAWYERS' EDITION HEADNOTES:

[***LEdHN1]

LAW §818

evidentiary hearing -- due process -- initial termination of Social Security disability benefits --

Headnote:[1A][1B]

An evidentiary hearing is not required prior to the initial termination of Social Security disability benefits pending final administrative decision, and the administrative procedures prescribed by the Secretary of Health, Education, and Welfare for termination of benefits, which procedures allow for such an initial termination but provide for full retroactive relief to the terminated individual who ultimately prevails upon final administrative decision on his claim, comport with due process, where (1) during the time between initial termination and the final administrative determination, the terminated individual has potential sources of temporary income from both private resources and government assistance programs, thus not warranting departure from the principle that something less than an evidentiary hearing is sufficient prior to adverse administrative action, (2) the decision whether to discontinue disability benefits turns, in most cases, upon routine, standard, and unbiased medical reports by physician specialists concerning a subject they have personally examined, thus lessening the potential value of an evidentiary hearing, or of even oral presentation to the decisionmaker, (3) the Secretary's procedure contains safeguards against mistake and enables the

424 U.S. 319, *; 96 S. Ct. 893, **;
47 L. Ed. 2d 18, ***LEdHN1; 1976 U.S. LEXIS 141

terminated individual to mold his argument to respond to the precise issues which the decisionmaker regards as crucial, (4) the additional cost in terms of money and administrative burden that would be associated with requiring an evidentiary hearing upon demand in all cases prior to the termination of disability benefits would not be insubstantial, and (5) the prescribed procedures not only provide the claimant with an effective process for asserting his claim prior to any administrative action, but also assure a right to an evidentiary hearing, as well as to subsequent judicial review, before the denial of the terminated individual's claim becomes final.

[***LEdHN2]

COMPENSATION §8

judicial review requirements -- termination of Social Security disability benefits --

Headnote:[2]

The denial of a Social Security disability benefit recipient's request for benefits upon having his benefits terminated for cessation of his disability constitutes a final decision for purposes of a Federal District Court's jurisdiction under 42 USCS 405(g)--which authorizes the judicial review of any final decision of the Secretary of Health, Education, and Welfare, made after a hearing to which he was a party--over the terminated individual's action challenging the Secretary's termination procedures allowing initial termination of disability benefits without an evidentiary hearing, where, (1) the final decision requirement's nonwaivable element necessitating that a claim for benefits shall have been presented to the Secretary was fulfilled, since the terminated individual had, through his answers to a questionnaire of a state agency responsible for monitoring his condition, indicated that his condition had not improved, and through his letter in response to the state agency's tentative determination that his disability had ceased (which letter disputed a characterization of the individual's medical condition and indicated that the agency already had enough evidence to establish his disability), specifically presented a claim that his benefits should not be terminated because he was still disabled, and since the state agency's decision to deny the individual's claim was accepted by the Social Security Administration, and (2) the final decision requirement's waivable element requiring that the administrative remedies prescribed by the Secretary be exhausted was satisfied, since, although the terminated individual had not exhausted the full set of internal review procedures provided by the Secretary, he had raised at least a colorable claim that because of his physical condition and dependency upon disability benefits, an erroneous termination would damage him in a way not recompensable through retroactive payments.

[***LEdHN3]

COMPENSATION §8

judicial review -- denial of benefits --

Headnote:[3]

A denial of claimed benefits under the Social Security Act may be judicially reviewed in a federal court on the basis of federal question jurisdiction only under 42 USCS 405(g), which requires exhaustion of the administrative remedy provided under the Act as a jurisdictional prerequisite.

[***LEdHN4]

COMPENSATION §8

judicial review -- final decision requirement -- elements --

Headnote:[4]

424 U.S. 319, *; 96 S. Ct. 893, **;
47 L. Ed. 2d 18, ***LEdHN4; 1976 U.S. LEXIS 141

The requirement of 42 USCS 405(g) for judicial review of a decision by the Secretary of Health, Education, and Welfare, which necessitates that there be a final decision by the Secretary after a hearing, consists of two elements, only one of which is purely jurisdictional in the sense that it cannot be waived by the Secretary in a particular case; the waivable element is the requirement that the administrative remedies prescribed by the Secretary be exhausted, while the nonwaivable element, which is an essential and distinct precondition for 405(g) jurisdiction, is the requirement that a claim for benefits shall have been presented to the Secretary.

[*LEdHN5]**

ERROR §1107

COMPENSATION §8

decision by Secretary of HEW -- review requirements -- venue -- statute of limitations --

Headnote:[5A][5B]

The conditions of 42 USCS 405(g) for judicial review of a decision by the Secretary of Health, Education, and Welfare, specifying a statute of limitations and appropriate venue, which necessitate that (1) the civil action be commenced within 60 days after mailing of notice of such decision, or within such additional time as the Secretary may permit, and (2) the action be filed in an appropriate Federal District Court, are waivable by the parties and need not be considered by the United States Supreme Court in determining whether 405(g) barred a Federal District Court's jurisdiction to consider an action challenging administrative procedures governing termination of Social Security disability benefits, where no question was raised below regarding whether such requirements had been satisfied.

[*LEdHN6]**

COMPENSATION §8

termination of disability benefits -- judicial review -- constitutional claim --

Headnote:[6A][6B]

In determining whether a Federal District Court had jurisdiction under 42 USCS 405(g)--which authorizes judicial review of a determination by the Secretary of Health, Education, and Welfare subsequent to a final decision by the Secretary made after a hearing--in an action brought by a recipient of Social Security disability benefits whose benefits had been terminated for cessation of his disability, which action challenged the constitutionality of the administrative procedures established by the Secretary for termination of benefits, the fact that the terminated individual, who had not exhausted the full set of internal review procedures provided by the Secretary before instituting his action, failed to raise with the Secretary his constitutional claim to a pretermination hearing is not controlling, and if the terminated individual had exhausted the full set of available administrative review procedures, the failure to have raised his constitutional claim would not bar him from asserting it later in a Federal District Court.

[*LEdHN7]**

COMPENSATION §8

determination by Secretary of HEW -- judicial review requirements -- waiver by Secretary --

Headnote:[7]

For purposes of 42 USCS 405(g)'s requirement for judicial review of a determination by the Secretary of Health,

424 U.S. 319, *; 96 S. Ct. 893, **;
47 L. Ed. 2d 18, ***LEdHN7; 1976 U.S. LEXIS 141

Education, and Welfare necessitating that there be a final decision of the Secretary made after a hearing, and for purposes of that requirement's waivable element necessitating the exhaustion of the administrative remedies prescribed by the Secretary, the Secretary may waive the exhaustion requirement if he satisfies himself, at any stage of the administrative process, that no further review is warranted either because the internal needs of the agency are fulfilled or because the relief that is sought is beyond his power to confer.

*****LEdHN8**

ERROR §22

statutory finality requirements -- factors -- construction --

Headnote:[8A][8B]

The nature of the claim being asserted and the consequences of deferment of judicial review are important factors in determining whether a statutory requirement of finality has been satisfied; statutorily created finality requirements should, if possible, be construed so as not to cause crucial collateral claims to be lost and potentially irreparable injuries to be suffered.

*****LEdHN9**

LAW §746

procedural due process --

Headnote:[9]

Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the due process clause of the Fifth or Fourteenth Amendments.

*****LEdHN10**

LAW §530

property interest -- Social Security disability benefits --

Headnote:[10]

The interest of an individual in continued receipt of Social Security disability benefits is a statutorily created property interest protected by the Fifth Amendment.

*****LEdHN11**

LAW §786

due process -- hearing --

Headnote:[11]

The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.

*****LEdHN12**

LAW §514

due process -- flexibility --

Headnote:[12]

Due process, unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place, and circumstances; due process is flexible and calls for such procedural protections as the particular situation demands.

[*LEdHN13]**

LAW §818

due process -- Social Security disability benefits -- pretermination hearing --

Headnote:[13]

In deciding whether procedural due process is complied with by the administrative procedures prescribed by the Secretary of Health, Education, and Welfare for terminating disability benefits under the Social Security Act, which procedures allow for initial termination of benefit payments on the ground of a recipient's no longer being disabled without providing the recipient an opportunity for an evidentiary hearing, the United States Supreme Court is required to analyze the governmental and private interests that are affected.

[*LEdHN14]**

LAW §751

due process -- factors for consideration --

Headnote:[14]

For purposes of determining the constitutional adequacy of administrative procedures, identification of the specific dictates of due process generally requires consideration of three distinct factors: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

[*LEdHN15]**

LAW §751

administrative decisionmaking process -- validity -- factor for consideration --

Headnote:[15]

The degree of potential deprivation that may be created by a particular decision is a factor to be considered in assessing the validity of any administrative decisionmaking process for purposes of due process.

[*LEdHN16]**

LAW §751

424 U.S. 319, *; 96 S. Ct. 893, **;
47 L. Ed. 2d 18, ***LEdHN16; 1976 U.S. LEXIS 141

administrative procedures -- due process -- length of deprivation of benefits --

Headnote:[16]

For purposes of determining whether administrative procedures are constitutionally sufficient in terms of due process by analyzing the governmental and private interests that are affected, the possible length of wrongful deprivation of benefits is an important factor in assessing the impact of official action on private interests.

[***LEdHN17]

LAW §786

adverse administrative action -- prior evidentiary hearing --

Headnote:[17]

Ordinarily, for purposes of due process, something less than an evidentiary hearing is sufficient prior to adverse administrative action.

[***LEdHN18]

LAW §746

procedural due process --

Headnote:[18]

Procedural due process rules are shaped by the risk of error inherent in the truth-finding process as applied to the generality of cases, not the rare exceptions.

[***LEdHN19]

LAW §751

system of procedure -- reliability and fairness -- reversal rate -- rate of error overall --

Headnote:[19A][19B]

In order to fully assess the reliability and fairness of a system of administrative procedure governing the termination of benefits for purposes of its compliance with due process, consideration must be given not only to the reversal rate for appealed cases, but also to the overall rate of error for all denials of benefits.

[***LEdHN20]

LAW §751

administrative decision -- prior procedural safeguard -- financial cost --

Headnote:[20]

Financial cost alone is not a controlling weight in determining whether due process requires a particular procedural safeguard prior to some administrative decision, but the government's interest, and hence that of the public, in conserving scarce fiscal and administrative resources, is a factor that must be weighed; at some point the benefit of an

424 U.S. 319, *; 96 S. Ct. 893, **;
47 L. Ed. 2d 18, ***LEdHN20; 1976 U.S. LEXIS 141

additional safeguard to the individual affected by the administrative action and to society in terms of increased assurance that the action is just, may be outweighed by the cost.

[*LEdHN21]**

LAW §778.5

due process -- Social Security benefits -- fairness standard --

Headnote:[21]

In deciding whether administrative procedures prescribed by the Secretary of Health, Education, and Welfare for terminating benefits under the Social Security Act, which procedures allow for initial termination of benefit payments on the ground of a recipient's no longer being disabled without providing the recipient an opportunity for an evidentiary hearing, comport with procedural due process, the ultimate balance involves a determination as to when, under the constitutional system, judicial-type procedures must be imposed upon administrative action to assure fairness.

[*LEdHN22]**

LAW §1

transplantation of court rules --

Headnote:[22]

Differences in the origin and function of administrative agencies preclude wholesale transplantation of the rules of procedure, trial, and review which have evolved from the history and experience of courts.

[*LEdHN23]**

LAW §787

evidentiary hearing -- due process -- notice --

Headnote:[23]

The judicial model of an evidentiary hearing is neither a required, nor even the most effective, method of decisionmaking in all circumstances; the essence of due process is the requirement that a person in jeopardy of serious loss be given notice of the case against him and an opportunity to meet it and all that is necessary is that the procedures be tailored, in light of the decision to be made, to the capacities and circumstances of those who are to be heard, to insure that they are given a meaningful opportunity to present their case.

[*LEdHN24]**

LAW §820

due process -- social welfare -- deference to judgments of administrators --

Headnote:[24]

In assessing whether due process requirements are met by the procedures prescribed by the Secretary of Health, Education, and Welfare for the termination of benefits under the Social Security Act, which procedures allow for initial termination of benefit payments on the ground of a recipient's no longer being disabled without providing the recipient

an opportunity for an evidentiary hearing, substantial weight must be given to the good-faith judgments of the individual charged by Congress with the administration of the social welfare system that the procedures they have provided assure fair consideration of the entitlement claims of individuals, especially where the prescribed procedures not only provide the claimant with an effective process for asserting his claim prior to any administrative action, but also assure a right to an evidentiary hearing, as well as to subsequent judicial review, before the denial of his claim becomes final.

SYLLABUS

In order to establish initial and continued entitlement to disability benefits under the Social Security Act (Act), a worker must demonstrate that, inter alia, he is unable "to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment" The worker bears the continuing burden of showing by means of "medically acceptable . . . techniques" that his impairment is of such severity that he cannot perform his previous work or any other kind of gainful work. A state agency makes the continuing assessment of the worker's eligibility for benefits, obtaining information from the worker and his sources of medical treatment. The agency may arrange for an independent medical examination to resolve conflicting information. If the agency's tentative assessment of the beneficiary's condition differs from his own, the beneficiary is informed that his benefits may be terminated, is provided a summary of the evidence and afforded an opportunity to review the agency's evidence. The state agency then makes a final determination, which is reviewed by the Social Security Administration (SSA). If the SSA accepts the agency determination it gives written notification to the beneficiary of the reasons for the decision and of his right to de novo state agency reconsideration. Upon acceptance by the SSA, benefits are terminated effective two months after the month in which recovery is found to have occurred. If, after reconsideration by the state agency and SSA review, the decision remains adverse to the recipient, he is notified of his right to an evidentiary hearing before an SSA administrative law judge. If an adverse decision results, the recipient may request discretionary review by the SSA Appeals Council, and finally may obtain judicial review. If it is determined after benefits are terminated that the claimant's disability extended beyond the date of cessation initially established, he is entitled to retroactive payments. Retroactive adjustments are also made for overpayments. A few years after respondent was first awarded disability benefits he received and completed a questionnaire from the monitoring state agency. After considering the information contained therein and obtaining reports from his doctor and an independent medical consultant, the agency wrote respondent that it had tentatively determined that his disability had ceased in May 1972 and advised him that he might request a reasonable time to furnish additional information. In a reply letter respondent disputed one characterization of his medical condition and indicated that the agency had enough evidence to establish his disability. The agency then made its final determination reaffirming its tentative decision. The determination was accepted by the SSA, which notified respondent in July that his benefits would end after that month and that he had a right to state agency reconsideration within six months. Instead of requesting such reconsideration respondent brought this action challenging the constitutionality of the procedures for terminating disability benefits and seeking reinstatement of benefits pending a hearing. The District Court, relying in part on *Goldberg v. Kelly*, 397 U.S. 254, held that the termination procedures violated procedural due process and concluded that prior to termination of benefits respondent was entitled to an evidentiary hearing of the type provided welfare beneficiaries under Title IV of the Act. The Court of Appeals affirmed. Petitioner contends, inter alia, that the District Court is barred from considering respondent's action by *Weinberger v. Salafi*, 422 U.S. 749, which held that district courts are precluded from exercising jurisdiction over an action seeking a review of a decision of the Secretary of Health, Education and Welfare regarding benefits under the Act except as provided in 42 U.S.C. § 405(g), which grants jurisdiction only to review a "final" decision of the Secretary made after a hearing to which he was a party. Held:

1. The District Court had jurisdiction over respondent's constitutional claim, since the denial of his request for benefits was a final decision with respect to that claim for purposes of § 405(g) jurisdiction. Pp. 326-332. S

(a) The § 405(g) finality requirement consists of the waivable requirement that the administrative remedies prescribed by the Secretary be exhausted and the nonwaivable requirement that a claim for benefits shall have been presented to

the Secretary. Respondent's answers to the questionnaire and his letter to the state agency specifically presented the claim that his benefits should not be terminated because he was still disabled, and thus satisfied the nonwaivable requirement. Pp. 328-330.

(b) Although respondent concededly did not exhaust the Secretary's internal-review procedures and ordinarily only the Secretary has the power to waive exhaustion, this is a case where the claimant's interest in having a particular issue promptly resolved is so great that deference to the Secretary's judgment is inappropriate. The facts that respondent's constitutional challenge was collateral to his substantive claim of entitlement and that (contrary to the situation in *Salfi*) he colorably claimed that an erroneous termination would damage him in a way not compensable through retroactive payments warrant the conclusion that the denial of his claim to continued benefits was a sufficiently "final decision" with respect to his constitutional claim to satisfy the statutory exhaustion requirement. Pp. 330-332.

2.I An evidentiary hearing is not required prior to the termination of Social Security disability payments and the administrative procedures prescribed under the Act fully comport with due process. Pp. 332-349. S

(a) "[D]ue process is flexible and calls for such procedural protections as the particular situation demands," *Morrissey v. Brewer*, 408 U.S. 471, 481. Resolution of the issue here involving the constitutional sufficiency of administrative procedures prior to the initial termination of benefits and pending review, requires consideration of three factors: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional procedural safeguards; and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail. Pp. 332-335.

(b) The private interest that will be adversely affected by an erroneous termination of benefits is likely to be less in the case of a disabled worker than in the case of a welfare recipient, like the claimants in *Goldberg*, *supra*. Eligibility for disability payments is not based on financial need, and although hardship may be imposed upon the erroneously terminated disability recipient, his need is likely less than the welfare recipient. In view of other forms of government assistance available to the terminated disability recipient, there is less reason that in *Goldberg* to depart from the ordinary principle than something less than an evidentiary hearing is sufficient prior to adverse administrative action. Pp. 339-343.

(c) The medical assessment of the worker's condition implicates a more sharply focused and easily documented decision than the typical determination of welfare entitlement. The decision whether to discontinue disability benefits will normally turn upon "routine, standard, and unbiased medical reports by physician specialists," *Richardson v. Perales*, 402 U.S. 389, 404. In a disability situation the potential value of an evidentiary hearing is thus substantially less than in the welfare context. Pp. 343-345.

(d) Written submissions provide the disability recipient with an effective means of communicating his case to the decisionmaker. The detailed questionnaire identifies with particularity the information relevant to the entitlement decision. Information critical to the decision is derived directly from medical sources. Finally, prior to termination of benefits, the disability recipient or his representative is afforded full access to the information relied on by the state agency, is provided the reasons underlying its tentative assessment, and is given an opportunity to submit additional arguments and evidence. Pp. 345-346.

(e) Requiring an evidentiary hearing upon demand in all cases prior to the termination of disability benefits would entail fiscal and administrative burdens out of proportion to any countervailing benefits. The judicial model of an evidentiary hearing is neither a required, nor even the most effective, method of decisionmaking in all circumstances, and here where the prescribed procedures not only provide the claimant with an effective process for asserting his claim prior to any administrative action but also assure a right to an evidentiary hearing as well as subsequent judicial review before the denial of his claim becomes final, there is no deprivation of procedural due process. Pp. 347-349.I

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493 F. 2d 1230, reversed.

POWELL, J., delivered the opinion of the Court, in which BURGER, C. J., and STEWART, WHITE, BLACKMUN, and REHNQUIST, JJ., joined. BRENNAN, J., filed a dissenting opinion, in which MARSHALL, J., joined, post, p. 349. STEVENS, J., took no part in the consideration or decision of the case.

COUNSEL: Solicitor General Bork argued the cause for petitioner. With him on the briefs were Deputy Solicitor General Jones, Acting Assistant Attorney General Jaffe, Gerald P. Norton, William Kanter, and David M. Cohen.

Donald E. Earls argued the cause for respondent. With him on the briefs was Carl E. McAfee. *

* J. Albert Wall, Laurence Gold, and Stephen P. Berzon filed a brief for the American Federation of Labor and Congress of Industrial Organizations et al. as amici curiae urging affirmance.

David A. Webster filed a brief for Caroline Williams as amicus curiae.

JUDGES: Burger, Brennan, Stewart, White, Marshall, Blackmun, Powell, Rehnquist, Stevens

OPINION BY: POWELL

OPINION

[*323] [***26] [**897] [***LEdHR1A] [1A]MR. JUSTICE POWELL delivered the opinion of the Court.

The issue in this case is whether the Due Process Clause of the Fifth Amendment requires that prior to the termination of Social Security disability benefit payments the recipient be afforded an opportunity for an evidentiary hearing.

I

Cash benefits are provided to workers during periods in which they are completely disabled under the disability insurance benefits program created by the 1956 amendments to Title II of the Social Security Act. 70 Stat. 815, 42 U.S.C. § 423. ¹ Respondent Eldridge was first awarded benefits in [***27] June 1968. In March 1972, he received a questionnaire from the state agency charged with monitoring his medical condition. Eldridge completed [*324] the questionnaire, indicating that his condition had not improved and identifying the medical sources, including physicians, from whom he had received treatment recently. The state agency then obtained reports from his physician and a psychiatric consultant. After considering these reports and other information in his file the agency informed Eldridge by letter that it had made a tentative determination that his disability had ceased in May 1972. The letter included a statement of reasons for the proposed termination of benefits, and advised Eldridge that he might request reasonable time in which to obtain and submit additional information pertaining to his condition.

¹ The program is financed by revenues derived from employee and employer payroll taxes. 26 U.S.C. §§ 3101(a), 3111(a); 42 U.S.C. § 401(b). It provides monthly benefits to disabled persons who have worked sufficiently long to have an insured status, and who have had substantial work experience in a specified interval directly preceding the onset of disability. 42 U.S.C. §§ 423(c)(1)(A) and (B). Benefits also are provided to the worker's dependents under specified circumstances. §§ 402(b) (d). When the recipient reaches age 65 his disability benefits are automatically converted to retirement benefits. §§ 416(i)(2)(D), 423(a)(1). In fiscal 1974 approximately 3,700,000 persons received assistance under the program. Social Security Administration, *The Year in Review* 21 (1974).

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In his written response, Eldridge disputed one characterization of his medical condition and indicated that the agency already had enough evidence to establish his disability.² The state agency then made its final determination that he had ceased to be disabled in May 1972. This determination was accepted by the Social Security Administration [**898] (SSA), which notified Eldridge in July that his benefits would terminate after that month. The notification also advised him of his right to seek reconsideration by the state agency of this initial determination within six months.

² Eldridge originally was disabled due to chronic anxiety and back strain. He subsequently was found to have diabetes. The tentative determination letter indicated that aid would be terminated because available medical evidence indicated that his diabetes was under control, that there existed no limitations on his back movements which would impose severe functional restrictions, and that he no longer suffered emotional problems that would preclude him from all work for which he was qualified. App. 12-13. In his reply letter he claimed to have arthritis of the spine rather than a strained back.

Instead of requesting reconsideration Eldridge commenced this action challenging the constitutional validity [*325] of the administrative procedures established by the Secretary of Health, Education, and Welfare for assessing whether there exists a continuing disability. He sought an immediate reinstatement of benefits pending a hearing on the issue of his disability.³ 361 F. Supp. 520 (WD Va. 1973). The Secretary moved to dismiss on the grounds that Eldridge's benefits had been terminated in accordance with valid administrative regulations and procedures and that he had failed to exhaust available remedies. In support of his contention that due process requires a pretermination hearing, Eldridge relied exclusively upon this Court's decision in *Goldberg v. Kelly*, 397 U.S. 254 (1970), which established a right to an "evidentiary hearing" prior to termination of welfare benefits.⁴ The [***28] Secretary contended that *Goldberg* was not controlling since eligibility for disability benefits, unlike eligibility for welfare benefits, is not based on financial need and since issues of credibility and veracity do not play a significant role in the disability entitlement decision, which turns primarily on medical evidence.

³ The District Court ordered reinstatement of Eldridge's benefits pending its final disposition on the merits.

⁴ In *Goldberg* the Court held that the pretermination hearing must include the following elements: (1) "timely and adequate notice detailing the reasons for a proposed termination"; (2) "an effective opportunity [for the recipient] to defend by confronting any adverse witnesses and by presenting his own arguments and evidence orally"; (3) retained counsel, if desired; (4) an "impartial" decisionmaker; (5) a decision resting "solely on the legal rules and evidence adduced at the hearing"; (6) a statement of reasons for the decision and the evidence relied on. 397 U.S., at 266-271. In this opinion the term "evidentiary hearing" refers to a hearing generally of the type required in *Goldberg*.

The District Court concluded that the administrative procedures pursuant to which the Secretary had terminated Eldridge's benefits abridged his right to procedural [*326] due process. The court viewed the interest of the disability recipient in uninterrupted benefits as indistinguishable from that of the welfare recipient in *Goldberg*. It further noted that decisions subsequent to *Goldberg* demonstrated that the due process requirement of pretermination hearings is not limited to situations involving the deprivation of vital necessities. See *Fuentes v. Shevin*, 407 U.S. 67, 88-89 (1972); *Bell v. Burson*, 402 U.S. 535, 539 (1971). Reasoning that disability determinations may involve subjective judgments based on conflicting medical and nonmedical evidence, the District Court held that prior to termination of benefits Eldridge had to be afforded an evidentiary hearing of the type required for welfare beneficiaries under Title IV of the Social Security Act. 361 F. Supp., at 528.⁵ Relying entirely upon the District Court's opinion, the Court of Appeals for the Fourth Circuit affirmed the injunction barring termination of Eldridge's benefits prior to an evidentiary hearing. 493 F. 2d 1230 (1974).⁶ We reverse.

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⁵ The HEW regulations direct that each state plan under the federal categorical assistance programs must provide for pretermination hearings containing specified procedural safeguards, which include all of the Goldberg requirements. See 45 CFR § 205.10(a) (1975); n. 4, *supra*.

⁶ The Court of Appeals for the Fifth Circuit, simply noting that the issue had been correctly decided by the District Court in this case, reached the same conclusion in *Williams v. Weinberger*, 494 F. 2d 1191 (1974), cert. pending, No. 74-205.

II

[899]** **[***LEdHR2]** [2] **[***LEdHR3]** [3] At the outset we are confronted by a question as to whether the District Court had jurisdiction over this suit. The Secretary contends that our decision last Term in *Weinberger v. Salfi*, 422 U.S. 749 (1975), bars the District Court from considering Eldridge's action. Salfi was an action challenging the Social Security Act's **[*327]** duration-of-relationship eligibility requirements for surviving wives and stepchildren of deceased wage earners. We there held that 42 U.S.C. § 405(h) ⁷ precludes federal-question jurisdiction **[***29]** in an action challenging denial of claimed benefits. The only avenue for judicial review is 42 U.S.C. § 405(g), which requires exhaustion of the administrative remedies provided under the Act as a jurisdictional prerequisite.

⁷ Title 42 U.S.C. § 405(h) provides in full:

[HN1] "(h) Finality of Secretary's decision.

"The findings and decisions of the Secretary after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Secretary shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Secretary, or any officer or employee thereof shall be brought under section 41 of Title 28 to recover on any claim arising under this subchapter."

Section 405(g) in part provides: S

[HN2] "Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow." ⁸ **[*328]** On its face § 405(g) thus bars judicial review of any denial of a claim of disability benefits until after a "final decision" by the Secretary after a "hearing." It is uncontested that Eldridge could have obtained full administrative review of the termination of his benefits, yet failed even to seek reconsideration of the initial determination. Since the Secretary has not "waived" the finality requirement as he had in *Salfi*, *supra*, at 767, he concludes that Eldridge cannot properly invoke § 405(g) as a basis for jurisdiction. We disagree.

⁸ Section 405(g) further provides:

"Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his

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principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia.... The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive...."

*****LEdHR4** [4] *****LEdHR5A** [5A]Salfi identified [HN3] several conditions which must be satisfied in order to obtain judicial review under § 405(g). Of these, the requirement that there be a final decision by the Secretary after a hearing was regarded as "central to the requisite grant of subject-matter jurisdiction...." 422 U.S., at 764.⁹ Implicit in Salfi, however, is the principle that this condition consists of two elements, only one of which is purely "jurisdictional" in the sense that it cannot be "waived" by the Secretary in a particular case. The waivable element is the requirement that the administrative remedies prescribed by the Secretary be exhausted. The nonwaivable element is the requirement that a claim for benefits shall have been presented to the Secretary. Absent such a claim there can be no "decision" of any type. And some decision by the Secretary is clearly required by the statute.

*****LEdHR5B** [5B]

⁹ The other two conditions are (1) that the civil action be commenced within 60 days after the mailing of notice of such decision, or within such additional time as the Secretary may permit, and (2) that the action be filed in an appropriate district court. These two requirements specify a statute of limitations and appropriate venue, and are waivable by the parties. Salfi, 422 U.S. at 763-764. As in Salfi no question as to whether Eldridge satisfied these requirements was timely raised below, see Fed. Rules Civ. Proc. 8(c), 12(h)(1), and they need not be considered here.

[*329] That *****900** this second requirement is an essential and distinct precondition for § 405 (g) jurisdiction is evident from the different conclusions that we reached in Salfi with respect to the named appellees and the unnamed *****30** members of the class. As to the latter the complaint was found to be jurisdictionally deficient since it "[c]ontained no allegations that they have even filed an application with the Secretary...." 422 U.S., at 764. With respect to the named appellees, however, we concluded that the complaint was sufficient since it alleged that they had "fully presented their claims for benefits 'to their district Social Security Office and, upon denial, to the Regional Office for reconsideration.'" Id., at 764-765. Eldridge has fulfilled this crucial prerequisite. Through his answers to the state agency questionnaire, and his letter in response to the tentative determination that his disability had ceased, he specifically presented the claim that his benefits should not be terminated because he was still disabled. This claim was denied by the state agency and its decision was accepted by the SSA.

*****LEdHR6A** [6A]The fact that Eldridge failed to raise with the Secretary his constitutional claim to a pretermination hearing is not controlling. ¹⁰ As construed in Salfi, § 405 (g) requires only that there be a "final decision" by the Secretary with respect to the claim of entitlement to benefits. Indeed, the named appellees in Salfi did not present their constitutional claim to the Secretary. Weinberger v. Salfi, O.T. 1974, No. 74-214, App. 11, 17-21. The situation here is not identical to Salfi, for, while the *****330** Secretary had no power to amend the statute alleged to be unconstitutional in that case, he does have authority to determine the timing and content of the procedures challenged here. 42 U.S.C. § 405 (a). We do not, however, regard this difference as significant. It is unrealistic to expect that the Secretary would consider substantial changes in the current administrative review system at the behest of a single aid recipient raising a constitutional challenge in an adjudicatory context. The Secretary would not be required even to consider such a challenge.

*****LEdHR6B** [6B]

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¹⁰ If Eldridge had exhausted the full set of available administrative review procedures, failure to have raised his constitutional claim would not bar him from asserting it later in a district court. Cf. *Flemming v. Nestor*, 363 U.S. 603, 607 (1960).

[*LEdHR7]** [7]As the nonwaivable jurisdictional element was satisfied, we next consider the waivable element. The question is whether the denial of Eldridge's claim to continued benefits was a sufficiently "final" decision with respect to his constitutional claim to satisfy the statutory exhaustion requirement. Eldridge concedes that he did not exhaust the full set of internal-review procedures provided by the Secretary. See 20 CFR §§ 404.910, 404.916, 404.940 (1975). As Salfi recognized, the Secretary may waive the exhaustion requirement if he satisfies himself, at any stage of the administrative process, that no further review is warranted either because the internal needs of the agency are fulfilled or because the relief that is sought is beyond his power to confer. Salfi suggested that under § 405 (g) the power to determine when finality has occurred ordinarily rests with the Secretary since ultimate responsibility for the integrity of the administrative program is his. But cases may arise where a claimant's interest in having a particular issue resolved promptly is so great that deference **[***31]** to the agency's judgment is inappropriate. This is such a case.

[*LEdHR8A]** [8A]Eldridge's constitutional challenge is entirely collateral to his substantive claim of entitlement. Moreover, there **[*331]** is a crucial distinction between the nature of the constitutional claim asserted here and that raised in Salfi. A claim to a predeprivation hearing as a matter of constitutional right rests on the proposition that full relief cannot be obtained at a postdeprivation hearing. **[***901]** See *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 156 (1974). In light of the Court's prior decisions, see, e.g., *Goldberg v. Kelly*, 397 U.S. 254 (1970); *Fuentes v. Shevin*, 407 U.S. 67 (1972), Eldridge has raised at least a colorable claim that because of his physical condition and dependency upon the disability benefits, an erroneous termination would damage him in a way not recompensable through retroactive payments. ¹¹ Thus, unlike the situation in Salfi, denying Eldridge's substantive **[*332]** claim "for other reasons" or upholding it "under other provisions" at the post-termination stage, 422 U.S., at 762, would not answer his constitutional challenge.

[*LEdHR8B]** [8B]

¹¹ Decisions in different contexts have emphasized that the nature of the claim being asserted and the consequences of deferment of judicial review are important factors in determining whether a statutory requirement of finality has been satisfied. The role these factors may play is illustrated by the intensely "practical" approach which the Court has adopted, *Cohen v. Beneficial Ind. Loan Corp.*, 337 U.S. 541, 546 (1949), when applying the finality requirements of 28 U.S.C. § 1291, which grants jurisdiction to courts of appeals to review all "final decisions" of the district courts, and 28 U.S.C. § 1257, which empowers this Court to review only "final judgments" of state courts. See, e.g., *Harris v. Washington*, 404 U.S. 55 (1971); *Construction Laborers v. Curry*, 371 U.S. 542, 549-550 (1963); *Mercantile Nat. Bank v. Langdeau*, 371 U.S. 555, 557-558 (1963); *Cohen v. Beneficial Ind. Loan Corp.*, supra, at 545-546. To be sure, certain of the policy considerations implicated in §§ 1257 and 1291 cases are different from those that are relevant here. Compare *Construction Laborers*, supra, at 550; *Mercantile Nat. Bank*, supra, at 558, with *McKart v. United States*, 395 U.S. 185, 193-195 (1969); L. Jaffe, *Judicial Control of Administrative Action* 424-426 (1965). But the core principle that statutorily created finality requirements should, if possible, be construed so as not to cause crucial collateral claims to be lost and potentially irreparable injuries to be suffered remains applicable.

We conclude that the denial of Eldridge's request for benefits constitutes a final decision for purposes of § 405 (g) jurisdiction over his constitutional claim. We now proceed to the merits of that claim. ¹²

¹² Given our conclusion that jurisdiction in the District Court was proper under § 405 (g), we find it unnecessary to consider Eldridge's contention that notwithstanding § 405 (h) there was jurisdiction over his claim under the mandamus statute, 28 U.S.C. § 1361, or the Administrative Procedure Act, 5 U.S.C. § 701 et seq.

III

A

[***LEdHR1B] [1B] [***LEdHR9] [9] [***LEdHR10] [10] [HN4] Procedural due process imposes constraints on governmental decisions which deprive individuals of "liberty" or "property" interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment. The Secretary does not contend that procedural due process is inapplicable to terminations of Social Security disability benefits. [***32] He recognizes, as has been implicit in our prior decisions, e.g., *Richardson v. Belcher*, 404 U.S. 78, 80-81 (1971); *Richardson v. Perales*, 402 U.S. 389, 401-402 (1971); *Flemming v. Nestor*, 363 U.S. 603, 611 (1960), that the interest of an individual in continued receipt of these benefits is a statutorily created "property" interest protected by the Fifth Amendment. Cf. *Arnett v. Kennedy*, 416 U.S. 134, 166 (POWELL, J., concurring in part) (1974); *Board of Regents v. Roth*, 408 U.S. 564, 576-578 (1972); *Bell v. Burson*, 402 U.S., at 539; *Goldberg v. Kelly*, 397 U.S., at 261-262. Rather, the Secretary contends that the existing administrative procedures, detailed below, provide all the process [***33] that is constitutionally due before a recipient can be deprived of that interest.

[**902] [***LEdHR11] [11] This Court consistently has held that [HN5] some form of hearing is required before an individual is finally deprived of a property interest. *Wolff v. McDonnell*, 418 U.S. 539, 557-558 (1974). See, e.g., *Phillips v. Commissioner*, 283 U.S. 589, 596-597 (1931). See also *Dent v. West Virginia*, 129 U.S. 114, 124-125 (1889). The "right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society." *Joint Anti-Fascist Comm. v. McGrath*, 341 U.S. 123, 168 (1951) (Frankfurter, J., concurring). The fundamental requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner." *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). See *Grannis v. Ordean*, 234 U.S. 385, 394 (1914). Eldridge agrees that the review procedures available to a claimant before the initial determination of ineligibility becomes final would be adequate if disability benefits were not terminated until after the evidentiary hearing stage of the administrative process. The dispute centers upon what process is due prior to the initial termination of benefits, pending review.

In recent years this Court increasingly has had occasion to consider the extent to which due process requires an evidentiary hearing prior to the deprivation of some type of property interest even if such a hearing is provided thereafter. In only one case, *Goldberg v. Kelly*, 397 U.S., at 266-271, has the Court held that a hearing closely approximating a judicial trial is necessary. In other cases requiring some type of pretermination hearing as a matter of constitutional right the Court has spoken sparingly about the requisite procedures. *Sniadach [***334] v. Family Finance Corp.*, 395 U.S. 337 (1969), involving garnishment of wages, was entirely silent on the matter. In *Fuentes v. Shevin*, 407 U.S., at 96-97, the Court said only that in a replevin suit between two private parties the initial determination required something more than an ex parte proceeding before a court clerk. Similarly, *Bell v. Burson*, supra, at 540, [***33] held, in the context of the revocation of a state-granted driver's license, that due process required only that the prerevocation hearing involve a probable-cause determination as to the fault of the licensee, noting that the hearing "need not take the form of a full adjudication of the question of liability." See also *North Georgia Finishing, Inc. v. Di-Chem, Inc.*, 419 U.S. 601, 607 (1975). More recently, in *Arnett v. Kennedy*, supra, we sustained the validity of procedures by which a federal employee could be dismissed for cause. They included notice of the action sought, a copy of the charge, reasonable time for filing a written response, and an opportunity for an oral appearance. Following dismissal, an evidentiary hearing was provided. 416 U.S. at 142-146.

[***LEdHR12] [12] [***LEdHR13] [13] [***LEdHR14] [14] These decisions underscore the truism that [HN6] "[d]ue process, 'unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances.'" *Cafeteria Workers v. McElroy*, 367 U.S. 886, 895 (1961). "[D]ue process is flexible and calls for such procedural protections as the particular situation demands." *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972).

Accordingly, resolution of the issue whether the administrative procedures provided here are constitutionally sufficient requires analysis of the governmental and private interests that are affected. *Arnett v. Kennedy*, supra, at 167-168 (POWELL, J., concurring in part); *Goldberg v. Kelly*, supra, at 263-266; *Cafeteria Workers v. McElroy*, supra, [**903] at 895. More precisely, our prior decisions [*335] indicate that identification of the specific dictates of due process generally requires consideration of three distinct factors: First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. See, e.g., *Goldberg v. Kelly*, supra, at 263-271.

We turn first to a description of the procedures for the termination of Social Security disability benefits, and thereafter consider the factors bearing upon the constitutional adequacy of these procedures.

B

The disability insurance program is administered jointly by state and federal agencies. State agencies make the initial determination whether a disability exists, when it began, and when it ceased. 42 U.S.C. § 421 (a).¹³ The standards [***34] applied and the procedures followed are prescribed by the Secretary, see § 421 (b), who has delegated his responsibilities and powers under the Act to the SSA. See 40 Fed. Reg. 4473 (1975).

¹³ In all but six States the state vocational rehabilitation agency charged with administering the state plan under the Vocational Rehabilitation Act of 1920, 41 Stat. 735, as amended, 29 U.S.C. § 701 et seq. (1970 ed., Supp. III), acts as the "state agency" for purposes of the disability insurance program. Staff of the House Committee on Ways and Means, Report on the Disability Insurance Program, 93d Cong., 2d Sess., 148 (1974). This assignment of responsibility was intended to encourage rehabilitation contacts for disabled workers and to utilize the well-established relationships of the local rehabilitation agencies with the medical profession. H.R. Rep. No. 1698, 83d Cong., 2d Sess., 23-24 (1954).

[*336] [HN7]

In order to establish initial and continued entitlement to disability benefits a worker must demonstrate that he is unable
S

"to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months..." 42 U.S.C. § 423 (d)(1)(A).I

To satisfy this test the worker bears a continuing burden of showing, by means of "medically acceptable clinical and laboratory diagnostic techniques," § 423 (d)(3), that he has a physical or mental impairment of such severity that S

"he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work." § 423 (d)(2)(A).¹⁴

¹⁴ Work which "exists in the national economy" is in turn defined as "work which exists in significant numbers either in the region where such individual lives or in several regions of the country." § 423 (d)(2)(A).

The principal reasons for benefits terminations are that the worker is no longer disabled or has returned to work. As

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Eldridge's benefits were terminated because he was determined to be no longer disabled, we consider only the sufficiency of the procedures involved in such cases. ¹⁵

¹⁵ Because the continuing-disability investigation concerning whether a claimant has returned to work is usually done directly by the SSA Bureau of Disability Insurance, without any state agency involvement, the administrative procedures prior to the post-termination evidentiary hearing differ from those involved in cases of possible medical recovery. They are similar, however, in the important respect that the process relies principally on written communications and there is no provision for an evidentiary hearing prior to the cutoff of benefits. Due to the nature of the relevant inquiry in certain types of cases, such as those involving self-employment and agricultural employment, the SSA office nearest the beneficiary conducts an oral interview of the beneficiary as part of the pretermination process. SSA Claims Manual (CM) § 6705.2 (c).

[*337] The **[**904]** continuing-eligibility investigation is made by a state agency acting through a "team" consisting of a physician and a nonmedical person trained in disability evaluation. The agency periodically communicates with the disabled worker, usually by mail -- in which case he is sent a detailed questionnaire -- or by telephone, and requests information concerning his present condition, including current medical restrictions and sources of treatment, and any additional information that he considers relevant to his continued entitlement to benefits. CM § 6705.1; Disability Insurance **[***35]** State Manual (DISM) § 353.3 (TL No. 137, Mar. 5, 1975). ¹⁶

¹⁶ Information is also requested concerning the recipient's belief as to whether he can return to work, the nature and extent of his employment during the past year, and any vocational services he is receiving.

Information regarding the recipient's current condition is also obtained from his sources of medical treatment. DISM § 353.4. If there is a conflict between the information provided by the beneficiary and that obtained from medical sources such as his physician, or between two sources of treatment, the agency may arrange for an examination by an independent consulting physician. ¹⁷ Ibid. Whenever the agency's tentative assessment of the beneficiary's condition differs from his **[*338]** own assessment, the beneficiary is informed that benefits may be terminated, provided a summary of the evidence upon which the proposed determination to terminate is based, and afforded an opportunity to review the medical reports and other evidence in his case file. ¹⁸ He also may respond in writing and submit additional evidence. Id., § 353.6.

¹⁷ All medical-source evidence used to establish the absence of continuing disability must be in writing, with the source properly identified. DISM § 353.4C.

¹⁸ The disability recipient is not permitted personally to examine the medical reports contained in his file. This restriction is not significant since he is entitled to have any representative of his choice, including a lay friend or family member, examine all medical evidence. CM § 7314. See also 20 CFR § 401.3 (a)(2) (1975). The Secretary informs us that this curious limitation is currently under review.

The state agency then makes its final determination, which is reviewed by an examiner in the SSA Bureau of Disability Insurance. 42 U.S.C. § 421 (c); CM §§ 6701 (b), (c). ¹⁹ If, as is usually the case, the SSA accepts the agency determination it notifies the recipient in writing, informing him of the reasons for the decision, and of his right to seek de novo reconsideration by the state agency. 20 CFR §§ 404.907, 404.909 (1975). ²⁰ Upon acceptance by the SSA,

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benefits are terminated effective two months after the month in which medical recovery is found to have occurred. 42 U.S.C. § 423 (a) (1970 ed., Supp. III).

19 The SSA may not itself revise the state agency's determination in a manner more favorable to the beneficiary. If, however, it believes that the worker is still disabled, or that the disability lasted longer than determined by the state agency, it may return the file to the agency for further consideration in light of the SSA's views. The agency is free to reaffirm its original assessment.

20 The reconsideration assessment is initially made by the state agency, but usually not by the same persons who considered the case originally. R. Dixon, *Social Security Disability and Mass Justice* 32 (1973). Both the recipient and the agency may adduce new evidence.

[*339] If the recipient seeks reconsideration by the state agency and the determination is adverse, the SSA reviews the reconsideration determination and notifies the recipient of the decision. He then has a right to an evidentiary hearing before an SSA administrative law judge. 20 CFR §§ 404.917, 404.927 (1975). The hearing is nonadversary, [**905] and the SSA is not represented by counsel. As at all prior and subsequent stages of the administrative process, however, the claimant may be represented by counsel or other spokesmen. § 404.934. If this hearing results in an adverse decision, the claimant is entitled to request discretionary review [***36] by the SSA Appeals Council, § 404.945, and finally may obtain judicial review. 42 U.S.C. § 405(g); 20 CFR § 404.951 (1975).²¹

21 Unlike all prior levels of review, which are de novo, the district court is required to treat findings of fact as conclusive if supported by substantial evidence. 42 U.S.C. § 405 (g).

Should it be determined at any point after termination of benefits, that the claimant's disability extended beyond the date of cessation initially established, the worker is entitled to retroactive payments. 42 U.S.C. § 404. Cf. § 423(b); 20 CFR §§ 404.501, 404.503, 404.504 (1975). If, on the other hand, a beneficiary receives any payments to which he is later determined not to be entitled, the statute authorizes the Secretary to attempt to recoup these funds in specified circumstances. 42 U.S.C. § 404.²²

22 The Secretary may reduce other payments to which the beneficiary is entitled, or seek the payment of a refund, unless the beneficiary is "without fault" and such adjustment or recovery would defeat the purposes of the Act or be "against equity and good conscience." 42 U.S.C. § 404(b). See generally 20 CFR §§ 404.501- 404.515 (1975).

C

Despite the elaborate character of the administrative procedures provided by the Secretary, the courts [*340] below held them to be constitutionally inadequate, concluding that due process requires an evidentiary hearing prior to termination. In light of the private and governmental interests at stake here and the nature of the existing procedures, we think this was error.

[HN8] Since a recipient whose benefits are terminated is awarded full retroactive relief if he ultimately prevails, his sole interest is in the uninterrupted receipt of this source of income pending final administrative decision on his claim.

424 U.S. 319, *340; 96 S. Ct. 893, **905;
47 L. Ed. 2d 18, ***36; 1976 U.S. LEXIS 141

His potential injury is thus similar in nature to that of the welfare recipient in *Goldberg*, see 397 U.S., at 263-264, the nonprobationary federal employee in *Arnett*, see 416 U.S., at 146, and the wage earner in *Sniadach*. See 395 U.S., at 341-342.²³

²³ This, of course, assumes that an employee whose wages are garnished erroneously is subsequently able to recover his back wages.

Only in *Goldberg* has the Court held that due process requires an evidentiary hearing prior to a temporary deprivation. It was emphasized there that welfare assistance is given to persons on the very margin of subsistence: S

"The crucial factor in this context -- a factor not present in the case of... virtually anyone else whose governmental entitlements are ended -- is that termination of aid pending resolution of a controversy over eligibility may deprive an eligible recipient of the very means by which to live while he waits." 397 U.S., at 264 (emphasis in original).I

[HN9] Eligibility for disability benefits, in contrast, is not based upon financial need.²⁴ Indeed, it is wholly unrelated [***37] to [*341] the worker's income or support from many other sources, such as earnings of other family members, workmen's compensation awards,²⁵ tort claims awards, savings, private [**906] insurance, public or private pensions, veterans' benefits, food stamps, public assistance, or the "many other important programs, both public and private, which contain provisions for disability payments affecting a substantial portion of the work force...." *Richardson v. Belcher*, 404 U.S., at 85-87 (Douglas, J., dissenting). See Staff of the House Committee on Ways and Means, Report on the Disability Insurance Program, 93d Cong., 2d Sess., 9-10, 419-429 (1974) (hereinafter Staff Report).

²⁴ The level of benefits is determined by the worker's average monthly earnings during the period prior to disability, his age, and other factors not directly related to financial need, specified in 42 U.S.C. § 415 (1970 ed., Supp. III). See § 423(a)(2).

²⁵ Workmen's compensation benefits are deducted in part in accordance with a statutory formula. 42 U.S.C. § 424a (1970 ed., Supp. III); 20 CFR § 404.408 (1975); see *Richardson v. Belcher*, 404 U.S. 78 (1971).

[**LEdHR15] [15]As *Goldberg* illustrates, [HN10] the degree of potential deprivation that may be created by a particular decision is a factor to be considered in assessing the validity of any administrative decisionmaking process. Cf. *Morrissey v. Brewer*, 408 U.S. 471 (1972). The potential deprivation here is generally likely to be less than in *Goldberg*, although the degree of difference can be overstated. As the District Court emphasized, to remain eligible for benefits a recipient must be "unable to engage in substantial gainful activity." 42 U.S.C. § 423; 361 F. Supp., at 523. Thus, in contrast to the discharged federal employee in *Arnett*, there is little possibility that the terminated recipient will be able to find even temporary employment to ameliorate the interim loss.

[**LEdHR16] [16]As we recognized last Term in *Fusari v. Steinberg*, 419 U.S. 379, 389 (1975), [HN11] "the possible length of wrongful deprivation of... benefits [also] is an important factor in assessing the impact of official action on the private interests." The Secretary concedes that the delay between [*342] a request for a hearing before an administrative law judge and a decision on the claim is currently between 10 and 11 months. Since a terminated recipient must first obtain a reconsideration decision as a prerequisite to invoking his right to an evidentiary hearing, the

delay between the actual cutoff of benefits and final decision after a hearing exceeds one year.

[***LEdHR17] [17]In view of the torpidity of this administrative review process, cf. *id.*, at 383-384, 386, and the typically modest resources of the family unit of the physically disabled worker,²⁶ the hardship imposed upon the erroneously terminated disability recipient may be significant. Still, the disabled worker's need is likely to be less than that of a welfare recipient. In addition to the possibility of access to private resources, other forms of government assistance will become available where the termination of disability benefits places a [***38] worker or his family below the subsistence level.²⁷ See *Arnett v. Kennedy*, 416 U.S., [*343] at 169 [**907] (POWELL, J., concurring in part); *id.*, at 201-202 (WHITE, J., concurring in part and dissenting in part). In view of these potential sources of temporary income, there is less reason here than in *Goldberg* to depart from the ordinary principle, established by our decisions, that [HN12] something less than an evidentiary hearing is sufficient prior to adverse administrative action.

26 Amici cite statistics compiled by the Secretary which indicate that in 1965 the mean income of the family unit of a disabled worker was \$ 3,803, while the median income for the unit was \$2,836. The mean liquid assets -- i.e., cash, stocks, bonds -- of these family units was \$4,862; the median was \$940. These statistics do not take into account the family unit's nonliquid assets -- i.e., automobile, real estate, and the like. Brief for AFL-CIO et al. as Amici Curiae App. 4a. See n. 29, *infra*.

27 Amici emphasize that because an identical definition of disability is employed in both the Title II Social Security Program and in the compensation welfare system for the disabled, Supplemental Security Income (SSI), compare 42 U.S.C. § 423(d)(1) with § 1382c(a)(3) (1970 ed., Supp. III), the terminated disability-benefits recipient will be ineligible for the SSI Program. There exist, however, state and local welfare programs which may supplement the worker's income. In addition, the worker's household unit can qualify for food stamps if it meets the financial need requirements. See 7 U.S.C. §§ 2013(c), 2014(b); 7 CFR § 271 (1975). Finally, in 1974 480,000 of the approximately 2,000,000 disabled workers receiving Social Security benefits also received SSI benefits. Since financial need is a criterion for eligibility under the SSI program, those disabled workers who are most in need will in the majority of cases be receiving SSI benefits when disability insurance aid is terminated. And, under the SSI program, a pretermination evidentiary hearing is provided, if requested. 42 U.S.C. § 1383(c) (1970 ed., Supp. III); 20 CFR § 416.1336(c) (1975); 40 Fed. Reg. 1512 (1975); see Staff Report 346.

D

[HN13] An additional factor to be considered here is the fairness and reliability of the existing pretermination procedures, and the probable value, if any, of additional procedural safeguards. Central to the evaluation of any administrative process is the nature of the relevant inquiry. See *Mitchell v. W. T. Grant Co.*, 416 U.S. 600, 617 (1974); *Friendly, Some Kind of Hearing*, 123 U. Pa. L. Rev. 1267, 1281 (1975). [HN14] In order to remain eligible for benefits the disabled worker must demonstrate by means of "medically acceptable clinical and laboratory diagnostic techniques," 42 U.S.C. § 423(d)(3), that he is unable "to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment...." § 423(d)(1)(A) (emphasis supplied). In short, a medical assessment of the worker's physical or mental condition is required. This is a more sharply focused and easily documented decision than the typical determination of welfare entitlement. In the latter case, a wide variety of information may be deemed relevant, and issues of witness credibility and [*344] veracity often are critical to the decisionmaking process. *Goldberg* noted that in such circumstances "written submissions are a wholly unsatisfactory basis for decision." 397 U.S., at 269.

[***LEdHR18] [18]By contrast, the decision whether to discontinue disability benefits will turn, in most cases, upon "routine, standard, and unbiased medical reports by physician specialists," *Richardson v. Perales*, 402 U.S., at 404, concerning a subject whom they have personally examined.²⁸ In [***39] *Richardson* the Court recognized the

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"reliability and probative worth of written medical reports," emphasizing that while there may be "professional disagreement with the medical conclusions" the "specter of questionable credibility and veracity is not present." *Id.*, at 405, 407. To be sure, credibility and veracity may be a factor in the ultimate disability assessment in some cases. But procedural due process rules are shaped by the risk of error inherent in the truthfinding process as applied to the generality of cases, not the rare exceptions. The potential value of an evidentiary hearing, or even oral presentation to the decisionmaker, [*345] is substantially less in this context than in *Goldberg*.

28 The decision is not purely a question of the accuracy of a medical diagnosis since the ultimate issue which the state agency must resolve is whether in light of the particular worker's "age, education, and work experience" he cannot "engage in any... substantial gainful work which exists in the national economy...." 42 U.S.C. § 423(d)(2)(A). Yet information concerning each of these worker characteristics is amenable to effective written presentation. The value of an evidentiary hearing, or even a limited oral presentation, to an accurate presentation of those factors to the decisionmaker does not appear substantial. Similarly, resolution of the inquiry as to the types of employment opportunities that exist in the national economy for a physically impaired worker with a particular set of skills would not necessarily be advanced by an evidentiary hearing. Cf. 1 K. Davis, *Administrative Law Treatise* § 7.06, p. 429 (1958). The statistical information relevant to this judgment is more amenable to written than to oral presentation.

The decision in *Goldberg* also was based on the Court's conclusion that written submissions were an inadequate substitute for oral presentation because they did not provide an effective means for the recipient to communicate his case to the decisionmaker. Written submissions were viewed as an unrealistic option, for most recipients lacked the "educational attainment necessary to [*908] write effectively" and could not afford professional assistance. In addition, such submissions would not provide the "flexibility of oral presentations" or "permit the recipient to mold his argument to the issues the decision maker appears to regard as important." 397 U.S., at 269. In the context of the disability-benefits-entitlement assessment the administrative procedures under review here fully answer these objections.

The detailed questionnaire which the state agency periodically sends the recipient identifies with particularity the information relevant to the entitlement decision, and the recipient is invited to obtain assistance from the local SSA office in completing the questionnaire. More important, the information critical to the entitlement decision usually is derived from medical sources, such as the treating physician. Such sources are likely to be able to communicate more effectively through written documents than are welfare recipients or the lay witnesses supporting their cause. The conclusions of physicians often are supported by X-rays and the results of clinical or laboratory tests, information typically more amenable to written than to oral presentation. Cf. W. Gellhorn & C. Byse, *Administrative Law -- Cases and Comments* 860-863 (6th ed. 1974).

A further safeguard against mistake is the policy of allowing the disability recipient's representative full access [*346] to all information relied upon by the state agency. In addition, prior to the cutoff of benefits the agency informs the recipient [***40] of its tentative assessment, the reasons therefor, and provides a summary of the evidence that it considers most relevant. Opportunity is then afforded the recipient to submit additional evidence or arguments, enabling him to challenge directly the accuracy of information in his file as well as the correctness of the agency's tentative conclusions. These procedures, again as contrasted with those before the Court in *Goldberg*, enable the recipient to "mold" his argument to respond to the precise issues which the decisionmaker regards as crucial.

[***LEdHR19A] [19A] Despite these carefully structured procedures, amici point to the significant reversal rate for appealed cases as clear evidence that the current process is inadequate. Depending upon the base selected and the line of analysis followed, the relevant reversal rates urged by the contending parties vary from a high of 58.6% for appealed reconsideration decisions to an overall reversal rate of only 3.3%.²⁹ Bare statistics rarely provide a satisfactory measure of the fairness of a decisionmaking process. Their adequacy is especially suspect here since [*347] the administrative review system is operated on an open file basis. A recipient may always submit new evidence, and such submissions may result in additional medical examinations. Such fresh examinations were held in approximately 30%

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to 40% of the appealed cases in fiscal 1973, either at the reconsideration or evidentiary hearing stage of the administrative process. Staff Report 238. In this context, the value of reversal rate statistics as one means of evaluating the adequacy of the pretermination process is diminished. Thus, although we view such information as relevant, it is certainly not controlling in this case.

***LEdHR19B] [19B]

29 By focusing solely on the reversal rate for appealed reconsideration determinations amici overstate the relevant reversal rate. As we indicated last Term in *Fusari v. Steinberg*, 419 U.S. 379, 383 n. 6 (1975), in order fully to assess the reliability and fairness of a system of procedure, one must also consider the overall rate of error for all denials of benefits. Here that overall rate is 12.2%. Moreover, about 75% of these reversals occur at the reconsideration stage of the administrative process. Since the median period between a request for reconsideration review and decision is only two months, Brief for AFL-CIO et al. as Amici Curiae App. 4a, the deprivation is significantly less than that concomitant to the lengthier delay before an evidentiary hearing. Netting out these reconsideration reversals, the overall reversal rate falls to 3.3%. See Supplemental and Reply Brief for Petitioner 14.

E

909] [HN15] In striking the appropriate due process balance the final factor to be assessed is the public interest. This includes the administrative burden and other societal costs that would be associated with requiring, as a matter of constitutional right, an evidentiary hearing upon demand in all cases prior to the termination of disability benefits. The most visible burden would be the incremental cost resulting from the increased number of hearings and the expense of providing benefits to ineligible recipients pending decision. No one can predict the extent of the increase, but the fact that full benefits would continue until after such hearings would assure the exhaustion in most cases of this attractive option. Nor would the theoretical right of the Secretary to recover undeserved benefits result, as a practical matter, in any substantial offset [41] to the added outlay of public funds. The parties submit widely varying estimates of the probable additional financial cost. We only need say that experience with the constitutionalizing of government procedures suggests that the ultimate additional cost in terms of money and administrative burden would not be insubstantial.

[*348] [***LEdHR20] [20] [HN16] Financial cost alone is not a controlling weight in determining whether due process requires a particular procedural safeguard prior to some administrative decision. But the Government's interest, and hence that of the public, in conserving scarce fiscal and administrative resources is a factor that must be weighed. At some point the benefit of an additional safeguard to the individual affected by the administrative action and to society in terms of increased assurance that the action is just, may be outweighed by the cost. Significantly, the cost of protecting those whom the preliminary administrative process has identified as likely to be found undeserving may in the end come out of the pockets of the deserving since resources available for any particular program of social welfare are not unlimited. See *Friendly*, supra, 123 U. Pa. L. Rev., at 1276, 1303.

LEdHR21] [21] [LEdHR22] [22] [***LEdHR23] [23] [***LEdHR24] [24] But more is implicated in cases of this type than ad hoc weighing of fiscal and administrative burdens against the interests of a particular category of claimants. The ultimate balance involves a determination as to when, under our constitutional system, judicial-type procedures must be imposed upon administrative action to assure fairness. We reiterate the wise admonishment of Mr. Justice Frankfurter that [HN17] differences in the origin and function of administrative agencies "preclude wholesale transplantation of the rules of procedure, trial, and review which have evolved from the history and experience of courts." *FCC v. Pottsville Broadcasting Co.*, 309 U.S. 134, 143 (1940). [HN18] The judicial model of an evidentiary hearing is neither a required, nor even the most effective, method of decisionmaking in all circumstances. The essence of due process is the requirement that "a person in jeopardy of serious loss [be given] notice of the case against him and opportunity to meet it." *Joint Anti-Fascist Comm. v. McGrath*, 341 U.S., at 171-172 [*349] (Frankfurter, J., concurring). All that is necessary is that the procedures be tailored, in light of the decision to be made, to "the

capacities and circumstances of those who are to be heard," *Goldberg v. Kelly*, 397 U.S., at 268-269 (footnote omitted), to insure that they are given a meaningful opportunity to present their case. In assessing what process is due in this case, substantial weight must be given to the good-faith judgments of the individuals charged by Congress with the administration of social welfare programs that the procedures they have provided assure fair consideration of the entitlement claims of individuals. See *Arnett v. Kennedy*, 416 U.S., at 202 (WHITE, J., concurring in part and dissenting in part). This is especially so where, as here, the prescribed procedures not only provide the claimant with an effective process for [**910] asserting his claim prior to any administrative action, but also assure a right to an evidentiary hearing, as well as to subsequent judicial [***42] review, before the denial of his claim becomes final. Cf. *Boddie v. Connecticut*, 401 U.S. 371, 378 (1971).

We conclude that [HN19] an evidentiary hearing is not required prior to the termination of disability benefits and that the present administrative procedures fully comport with due process.

The judgment of the Court of Appeals is

Reversed.

MR. JUSTICE STEVENS took no part in the consideration or decision of this case.

DISSENT BY: BRENNAN

DISSENT

MR. JUSTICE BRENNAN, with whom MR. JUSTICE MARSHALL concurs, dissenting.

For the reasons stated in my dissenting opinion in *Richardson v. Wright*, 405 U.S. 208, 212 (1972), I agree with the District Court and the Court of Appeals that, prior to termination of benefits, Eldridge must be afforded [*350] an evidentiary hearing of the type required for welfare beneficiaries under Title IV of the Social Security Act, 42 U.S.C. § 601 et seq. See *Goldberg v. Kelly*, 397 U.S. 254 (1970). I would add that the Court's consideration that a discontinuance of disability benefits may cause the recipient to suffer only a limited deprivation is no argument. It is speculative. Moreover, the very legislative determination to provide disability benefits, without any prerequisite determination of need in fact, presumes a need by the recipient which is not this Court's function to denigrate. Indeed, in the present case, it is indicated that because disability benefits were terminated there was a foreclosure upon the Eldridge home and the family's furniture was repossessed, forcing Eldridge, his wife, and their children to sleep in one bed. Tr. of Oral Arg. 39, 47-48. Finally, it is also no argument that a worker, who has been placed in the untenable position of having been denied disability benefits, may still seek other forms of public assistance.

REFERENCES

What constitutes agency "action," "order," "decision," "final order," "final decision," or the like, within meaning of federal statutes authorizing judicial review of administrative action--Supreme Court cases

1 Am Jur 2d, Administrative Law 397 et seq., 16 Am Jur 2d, Constitutional Law 569 et seq.

42 USCS 405(g)

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L Ed Index to Annos, Due Process of Law, Social Security and Unemployment Compensation

424 U.S. 319, *350; 96 S. Ct. 893, **910;
47 L. Ed. 2d 18, ***42; 1976 U.S. LEXIS 141

ALR Quick Index, Due Process of Law; Social Security

Federal Quick Index, Due Process of Law; Social Security and Unemployment Compensation

Annotation References:

What constitutes agency "action," "order," "decision," "final order," "final decision," or the like, within meaning of federal statutes authorizing judicial review of administrative action-- Supreme Court cases. 47 L Ed 2d 843.