

# Senate Committee on Finance

Statement of Witold Skwierczynski, President of the American Federation of Government Employees National Council of Social Security Administration Field Operations Locals, Baltimore, Maryland

Testimony Before the Senate Committee on Finance

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I thank Chairman Baucus, Ranking Member Grassley and members of the committee for the opportunity to present this statement regarding the Social Security Administration's (SSA's) deterioration in public service due to years of inadequate funding.

As President of the American Federation of Government Employee's (AFGE) National Council of Social Security Administration Field Operations Locals and Spokesperson for the AFGE SSA General Committee, I present this statement on behalf of approximately 50,000 bargaining unit Social Security employees who work in over 1500 facilities nationwide. The employees represented by the Union work in Field Offices, Program Service Centers, Teleservice (800 Number) Centers, Regional Offices of Quality Assurance, Offices of Disability Adjudication and Review, Regional Offices, Headquarters Offices, the Wilkes-Barre Data Operations Center, and other sites throughout the country where SSA employees take, process and review claims for retirement, survivor, disability benefits and appeal requests for SSA and SSI benefits.

The primary message the Union wants to convey to this Committee is that Social Security is in *dire need* of both additional administrative funding and Congressional oversight of its service delivery practices. The crisis in the disability program as manifested in the obscene delays in processing disability hearings appeals is primarily due to the failure of the President and Congress to adequately fund administrative expenses. Staffing levels have become much too low in SSA. This has affected not only the disability workloads but also all work that the Agency is required to accomplish.

Unacceptable backlogs have escalated and critical integrity workloads are not done. Employees who work on the SSA front lines and interact with the public are assigned impossible workloads. They are expected to increase their productivity, interview more and more claimants, maintain a high level of accuracy, provide friendly and compassionate service when interacting with the public while Congress and the President not only assign more programs and workloads to the Agency but do so while reducing staff. Dedicated veteran employees are fed up with the deteriorating stressful work environment and count the days till they can retire. SSA changes priorities and engages in crisis management efforts to plug the rapidly multiplying holes in the dam. Employees are not asked or encouraged to provide input regarding what should be done to solve the Agency's problems. Instead they are just told what to do.

The unfortunate victims of the decisions that have been made to starve the Agency are the American public who rely on SSA to provide them and their families with retirement, disability and survivor's benefit security. Also affected are the poor aged, blind and disabled who rely on SSA to provide subsistence SSI benefits so that they can survive. These victims are frequently faced with delays of over 2 years when they file for either SSA or SSI disability benefits. Only 30 % of initial claims for disability are allowed due to an archaic system in which state employees make decisions on whether claimants are eligible for a federal disability program. If their initial claim is denied, the applicant is faced with a nightmare scenario of delays of one to three years before their appeal is decided by the Agency.

Claimants find it difficult to interact with a Social Security employee when they need assistance. In February 2008, SSA briefed the Union and reported that 25 % of the calls to the 800 number are unanswered. If a claimant calls their local office they can't get through 51% of the time. Due to the decision to save money by closing offices, many claimants face lengthy commutes to find an SSA office. When they arrive they face lengthy waits. If they try to file their application through the internet, they must confront a complex set of questions and choices with little assistance. Consequently, re-contacts by SSA employees are virtually universal and can cause lengthy delays in the claims process.

In order to stretch resources, SSA has loosened evidentiary standards. Standard evidence such as proof of age, citizenship and development of recent wages not posted on a wage earner's earnings record is no longer requested in most cases. Thus, more ineligible claimants are approved for erroneous payments and more claimants are paid incorrectly. Once applicants begin receiving benefits, SSA can no longer review the accuracy of disability and SSI benefits by conducting Continuing Disability

Reviews (CDRs) at the required levels due to staff shortages. In FY 08 the Agency will only conduct 33% of scheduled CDRs. Consequently, thousands of individuals who have recovered from their disabilities simply continue to collect benefits.

Thousands of SSI recipients who have not reported changes in their income, resources or living arrangements continue to be paid incorrectly since the Agency doesn't have enough staff to review their cases and conduct redeterminations. In FY 08, SSA will only process 50% of scheduled SSI redeterminations. When their cases are reviewed, SSA assesses many of these SSI recipients with overpayments which are difficult or impossible to collect from a marginal population.

Budget cuts and a shortage of personnel have been an issue at Social Security for over 20 years, but this Agency is now using both of them as an excuse to make a number of "backdoor" changes that AFGC feels will disadvantage the millions of Americans who are part of the "Baby Boom Generation." These changes include loosening evidentiary requirements that will enhance the possibility of fraud. In addition, SSA is planning to reduce the assistance provided to claimants when making their choices of when to effectuate retirement benefits. Such changes will increase the likelihood that claimants will make choices against their interests. This is all part of a plan to save money by shifting service to internet claims without employee review.

Offices around the United States are being closed at an alarming rate. In 2007 SSA closed 17 offices – the highest number in SSA history. These offices are closed without examination of the adverse impact that such closures have on the affected community.

SSA staffing shortages have encouraged 3<sup>rd</sup> party businesses to fill the void and offer to assist claimants in their interactions with SSA. Such assistance, of course, is for a price. Few claimants attempt to navigate the SSA hearings appeal system without representation. However, SSA has plans to encourage and assist 3<sup>rd</sup> parties in expanding the menu of services that they offer claimants for a fee.

SSA traditionally has provided assistance to claimants as part of the FICA taxes that wage earners have paid during their working lives. Now SSA has plans to encourage claimants to fend for themselves and use 3<sup>rd</sup> parties who charge a fee instead of SSA employees. Expanding 3<sup>rd</sup> party involvement in the claims process due to budgetary constraints can only lead to pressure for future contracting out of core SSA services.

### **SSA Budget and Staffing Cuts**

Based on the President's proposed budget for the next fiscal year, SSA will have lost more than **9.4%** of its staff in just four years. SSA has experienced a dramatic increase in workloads as members of the Baby Boom Generation reach their peak years for becoming disabled and start filing for retirement benefits in 2008. From 2001 to 2007, productivity climbed an average of **2.5%** per year, for a total gain of **13.1%** since 2001. SSA expects the increase in productivity for FY 2008 to be **2%**[2].

	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY2009</b>
Budget Proposed	8,878,000	9,403,000	9,496,000	9,597,000	10,327,000
Budget Enacted	8,733,000	9,109,000	9,298,000	9,745,000	
SSA Full-Time Equivalents (FTEs)	62,937	63,131	58,985	60,064	60,293
SSA Medicare Modernization (FTEs)	<u>1,268</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>Subtotal SSA FTEs (including OIG)</b>	<b>64,205</b>	<b>63,131</b>	<b>58,985</b>	<b>60,064</b>	<b>60,293</b>
Overtime/Lump Sum Leave	2,992	2,389	1,307	2,231	2,245
Overtime (associated w/Medicare Modernization)	<u>1,567</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>Subtotal Overtime Lump Sum Leave</b>	<b>4,559</b>	<b>2,398</b>	<b>1,307</b>	<b>2,231</b>	<b>2,245</b>
<b>Total SSA Work years (including OIG)</b>	<b>68,764</b> [3]	<b>65,529</b> [4]	<b>61,292</b>	<b>62,295</b>	<b>62,538</b>
		<b>(-3,235)</b>	<b>(-4,237)</b>	<b>(+1003)</b>	<b>(+243)</b>

Unless there is a turnaround in Social Security's operating budget, SSA's ability to get its work done will completely break down within the next five to ten years. Recent SSA records indicate **1 out of 8** callers failed to get an 800 number agent on Social Security's 800-number on any given day. Those who called any of the 1260 field offices for service in FY 07 did not have their calls answered 51% of the time. People line up before dawn outside many offices. The time it takes to pay disability claims to the most vulnerable people we serve can be measured in years instead of days or months.

The President's budget request for SSA in FY 09 is \$10.327 billion. Unfortunately Commissioner Astrue's request was for less than the Agency's request for FY 08. The President's budget would result in an increase in staff of only 229 FTE. After years of cuts, a modest increase is better than nothing but hardly enough to allow the Agency to reduce its backlogs while continuing to process its day to day work. Both the House and the Senate Budget Committees have recommended that the President's budget be increased by \$240 million. AFGE and other groups interested in the SSA administrative cost crisis recommended that SSA be allocated \$11 billion in administrative cost or \$673 million over the President's budget. This amount would restore some lost staff, and allow the Agency the opportunity to significantly reduce backlogs, and permit SSA to process more integrity workloads.

Currently, Congress borrows from the Social Security Trust Fund to offset deficit spending and finance the war in Iraq and other budget priorities. Meanwhile, Social Security is given barely enough funding to accomplish its basic service demands, resulting in poor public service, excessive delays and *billions* of dollars of improper payments. This is the case even though the trust fund collects \$billions more that is spent every year.

The Omnibus Reconciliation Act of 1990 provided that SSA FICA taxes and benefits payments were "off budget." Congress later interpreted that SSA's Limitation on Administrative Expenses (LAE) was not covered by the Omnibus Reconciliation Act of 1990, although the Social Security Act stipulates that administrative costs for the Social Security program must be financed by Social Security Trust Funds. Since the SSA LAE (e.g., staffing, office space, supplies, technology, etc.) is "on budget," Congress decides on a yearly basis the amount that will be authorized and appropriated to administer SSA programs.

The \$150 million over the President's budget, appropriated by Congress for fy08 is welcome addition to the Administrative budget, which will enable SSA to maintain level staffing in FY08.

Programs such as medical research, health care and "No Child Left Behind" state grants are often viewed as more politically popular than SSA's LAE. Often SSA is left with insufficient staff and limited overtime making it next to impossible to adequately service the public. Such shortages adversely affect disability processing time and cause severe integrity problems.

AFGE does not believe the American public deserves poor service from SSA. Some claimants waiting for a disability hearings decision lose their homes, declare bankruptcy, and some die before a decision is made on their disability claims appeal. Their families suffer tremendous financial hardships; some lose everything during the prolonged wait for a decision. The public deserves efficient, expeditious service. Currently, SSA's LAE is less than 2% of total estimated outlays.

Removing SSA's LAE from discretionary spending caps will allow Congress to assess SSA's administrative requirements without regard to the competing budgetary demands of the Departments of Labor, HHS and Education agencies.

In an "off budget" environment Congress would continue to maintain spending authority but would be unencumbered by artificial caps and budgetary scoring rules. ***However, AFGE strongly recommends continued Congressional authorization, appropriations and oversight of SSA's LAE.***

Congress should continue to appropriate SSA administrative expenses to ensure integrity and efficiency. Legislation should require SSA's Commissioner to document (in performance reports mandated under the Government Performance and Results Act) how funds have been and will be used to effectively carry out the mission of the agency, to meet expected levels of performance, to achieve modern customer-responsive service, and to protect program integrity. Most importantly, GAO must annually inform Congress regarding SSA's progress in achieving stated goals. Congress should also mandate that SSA's Commissioner submit the proposed budget directly to Congress as is now only optional in the independent agency legislation (P.L. 103-296,§101.) This requirement to submit the SSA budget directly to Congress is also a provision of HR 5110 sponsored by Congressman Higgins of New York and endorsed by AFGE.

## **AFGE Recommendations-**

- Congress should enact off budget legislation including SSA administrative expenses with benefits which are already off budget. Congress should retain appropriations and oversight authority albeit unencumbered by artificial budget caps and scoring restrictions.
- Congress should enact legislation requiring the Commissioner to submit the SSA appropriation request directly to Congress.
- Congress should support the House Budget Committee recommendation to increase the SSA administrative budget by at least \$240 million over the President's budget request and, preferably, at the \$11 billion total amount.

## **Social Security Card Centers**

In the last few years, Social Security has opened 6 Card Centers in New York City (2), Phoenix (2), Las Vegas and Orlando. The Commissioner informed the union that he intends to open at least 20 more such card centers. Existing personnel was used to staff these new offices. This card center concept is a bad idea. In fact, **Social Security Card Centers are an example of how to provide really bad public service!**

During Fiscal Year 2007, SSA processed 17.6 million Social Security Number (SSN) applications for new or replacement Social Security cards. Most of them were processed in the 1260 field offices across the country. Virtually all of SSA's field office staff has been trained to process SSN applications. This would include clericals, Service Representatives, Claims Representatives, Technical Experts and management.

Once card centers are opened, the public in a broad geographic area is required to do all their SSA card business in the card center. Local full service offices in the service area of a card center are no longer permitted to do SSN card work. In some cases this requires the public to travel long distances to get their SSA card business done. The Las Vegas card center services a 5 county jurisdiction. Outlying cities are as far as 265 miles from the card center. The Phoenix card centers cover the service areas of 5 field offices. Those 5 offices processed more than 220,000 card applications in FY07. Outlying cities are as far as 50 miles from the closest Phoenix card center. Indian reservations in the Phoenix, AZ and Las Vegas NV service areas are not exempt from SSA's policy that the applicant *must* visit the Social Security card center to obtain a Social Security card. The Orlando, Florida card center serviced a 3 county jurisdiction. Outlying cities as far as 60 miles from the card center.

The Las Vegas card center experienced huge workloads earlier this year. In January customers frequently started lining up at 6 AM at the card center door that didn't open till 9 AM. At the end of the day when the office closed at 4 PM, the 175 capacity waiting room was full and lines were out the door. Often the last customer was serviced after 7 PM. SSA clients are inconvenienced, forced to wait hours for service and employees were faced with mandatory overtime to service all the customers. Universal e-verify or a resumption of the No Match program will only exacerbate this situation. If an employee is a no-match victim, and within the card center service area, the employer must visit the card center to correct their record. If they visit their local SSA office, they will be turned away and directed to a card center.

Historically, SSA has always required its offices to be full service facilities. There are no offices exclusively devoted to disability or retirement claims. All field offices process whatever business that the public has with SSA. The card centers are the 1<sup>st</sup> deviations from this policy. They were established for security purposes. It was thought that employees who only did SS card work would have unique expertise. However, every SSA office outside of the card center jurisdictions does a high volume of SSA card work. Employees in field offices have as much expertise as card center employees in doing this work. The amount of inconvenience that is created with card centers is unnecessary. Whether you should drive 69 miles from Searchlight, NV or 35 miles from Buckeye, AZ to a card center, the public should not have to endure today's high price of fuel or jump through hoops to receive their Social Security card. AFGE recommends that SSA drop the concept of card centers.

There is no logical reason to maintain the concept of card centers. There is certainly no reason to expand them. Why would the government force the public to travel to inconvenient locations to do their SSA business instead of permitting them to visit their local community based office? Even the employees are reluctant to work there. Management forced employees to work at most the card centers by ordering directed reassignments.

**SSA is unwilling to change this policy. Therefore, AFGE believes Members of Congress should:**

- Require SSA Field offices to become full service facilities.
- Request Commissioner Astrue to reverse SSA's policy of forcing the public to leave a field office and commute to a Social Security Card Center when they either went to the wrong office or had multiple business with the Agency.
- Request Commissioner Astrue to suspend all plans to open additional Social Security Card Centers until this policy is reviewed and/or reversed.
- Request Commissioner Astrue to provide an analysis of factors relating to transportation and communication burdens faced by seniors and the disabled, which shall include a cost-benefit analysis for each Social Security Card Center that takes into account--
  - the anticipated savings to SSA as a result of the Card Center; and
  - A description of the service area-
    - Geographic boundaries;
    - Size/square miles;
    - list of the counties/zip codes; and
    - geographic and topographic features which affect service area delivery; and
  - the anticipated burdens, including communication and transportation costs, placed on elderly and disabled citizens which shall include-
    - Average distance and travel time to the Card Center vs the FO;
    - Accessibility from major highways and roads;
    - Availability, convenience and cost of public and privately-sponsored transportation;
    - Availability, convenience and cost of parking;
    - Accessibility for people with disabilities (transportation, parking, building accommodations, etc.).
- Request the authorizing committees to hold hearings on policies and problems related to Social Security Card Centers.
- Request Appropriation subcommittees on Labor, HHS and Education to include language that would prevent SSA from using appropriated dollars to fund Social Security Card Centers.

### **Internet Claims, Internet Social Security Benefits Application and Ready Retirement**

The Social Security Administration has offered the public access to Internet services for almost a decade but with mixed results. On the positive side, "service" can be provided without contacting an SSA facility. The negative effects are not so obvious or made public by the Agency. Unfortunately, little has been done to correct these problems.

They include:

- Programming flaws that do not correctly identify the "protected filing date."
- Identity and privacy concerns
- Incorrect payments
- High volume of errors, resulting in re-contacts.
- Creation of a new backlog at Social Security
- No review of the public's accuracy in completing applications.

Additionally, SSA has implemented new policy changes in an effort to eliminate employee review of claims filed through the Internet altogether. These changes include:

- Lag earnings will no longer be routinely developed.
- No longer requiring proof of citizenship for age 60 or over
- No longer requiring proof of age for age 60 or over
- No longer assisting the claimant in determining the most advantageous month of entitlement.
- No longer assists survivors to decide whether and when to file for widows benefits vs retirement benefits.
- No longer reviews questionable responses, questions on the applications which might lead to benefit enhancements, benefits leads, or fraudulent activity.

SSA argues that savings in work years will be achieved through the relaxation of evidentiary standards and the elimination of advice and assistance to claimants, which will allow the Agency to concentrate on elimination of backlogs and improve Agency service. Unfortunately, AFGE asserts that such changes are dangerous and will result in increased fraud, incorrect

payments, and claimants making decisions that are not in their best interests. Therefore, the Union and the employees of SSA strongly disagree with the Agency's recent policy decisions.

#### **No Development of Lag Earnings-Effective 1/23/2008**

Lag earnings are wages earned but not yet posted to the earnings record. In the past, the Claims Representative determines if the prior year's earnings have been posted to the applicant's earnings record. If not, they are manually added to determine an accurate and full benefit estimate. If the applicant has his/her W-2 form available, the wages can be easily added to the benefit computation at the initial interview. Lag wages tend to increase the benefit amount for most wage earners. Eventually SSA conducts a re-computation of the benefits when the IRS verifies the earnings and pays the beneficiary(s) accordingly if lag wages are not developed for the initial claim. Unfortunately, this process could take several months. The process sometimes takes years if particular conversion problems occur. Eliminating lag wage development ensures that most claimants will be paid incorrectly until the benefit amount is recomputed after receiving IRS data. Employees are necessary to review a W2 form and credit the record to increase the applicant's benefit. This would deter the Agency's goal of an employee free internet claim process.

#### **No Development of Proof of Age and Citizenship-Effective 2/11/2008**

Historically, SSA requires claimants to submit evidence to establish their rights to benefits. One of the most important parts of the claims process is the gathering, recording and evaluation of this evidence by SSA Claims Representatives.

In February 2008, SSA made major policy changes that no longer require proof of age or citizenship for those filing for benefits who are over age 60 and make an allegation of date and place of birth that agreed with their Social Security number record, known internally as a "numident." Thus, if an individual lied about their date and/or place of birth in order to get a Social Security number for a job and the person uses the same erroneous information at the time of benefit application, a match will exist and neither proof of age or citizenship will be requested by SSA. This change was instituted without any regulatory notice.

#### **AFGE strongly believes this is bad public policy that will lead to fraud and incorrect payments.**

Until 1981, Social Security cards were issued without any form of identification. Allegations of date and place of birth were accepted on face value without evidentiary requirements. For the "baby boom" generation, the Social Security card was an easy record to obtain if someone wanted to change their identity, age or even place of birth.

Therefore, if, for example, someone illegally entered the United States in the 1950s, 1960s, or 1970s and stated on their Social Security Card Application that they were born in El Paso, Texas, SSA accepted the allegation. If that person now applies for retirement benefits and continues to allege that El Paso is his/her place of birth, SSA will accept the matching allegations and pay this person although they are not eligible for benefits.

A 14 year old could easily have lied about being 16 to get a job and obtain a Social Security Number. If such a person uses the same date of birth at retirement time, they would be eligible for benefits 2 years earlier. Under the new rules, SSA will never check for proof of age.

The Administration's reckless decision to accept a person's allegation, as long as it agrees with the allegation on the original application, is inconceivable and unlawful.<sup>[6]</sup> Its purpose is not to ensure accuracy or to improve public service. The reason for these evidentiary relaxations is to allow claimants to file Internet applications without any review or intervention by an SSA employee.

Despite Union requests, SSA has provided no studies to show that the elimination of proof of age and citizenship verification will not have an adverse effect on accuracy.

#### **Accept Allegation of Month of Entitlement-Effective September 2008**

SSA officials have announced that in September, 2008 SSA will introduce a new Internet Social Security Claims Benefit Application (ISBA), which is considered a simpler retirement application and which will be the vehicle for the Agency's ultimate goal of automated adjudication requiring no human review or intervention.

Claims Representatives undergo several months of intensive training so they can understand all aspects of the Retirement and Disability process. There is also additional training after they begin taking claims and regular updates are provided to them. It's unreasonable to think a person who has never had any dealings with Social Security can navigate through the claims process without making substantial errors.

A common situation involves Retirement benefits vs. Widow(er) benefits. This is a very complex problem because it involves the month of entitlement and which is more financially advantageous for the people who is filing. With no oversight or review by an SSA Claims Representative, it's very possible that the claimant will choose incorrectly and disadvantage themselves. The result could be a loss of several hundred dollars a month in benefits.

Additionally, SSA will implement a new procedure that will require SSA Claims Representatives to stop providing advice and assistance to the retirement applicant to help them decide the effective month of their retirement benefits (i.e., month of election).

Determining the correct or most advantageous month of entitlement (MOE) for an applicant is one of the most complicated and error prone issues in processing a retirement claim. Many factors must be considered when determining a MOE, such as current work history, self employment, Totalization rules, and past disability history.

In preparation for this hearing, AFGE has reviewed Sample RSI Quality Feedback Reports which capture errors taken from Regional Office of Quality Assurance reviews of retirement claims. These sample cases clearly exhibit various actions on the part of SSA resulting in incorrect payment amounts to the beneficiary. The following were some of the most common errors listed in these reports-

- Incorrect Date of Entitlement Causes Underpayment
- Incorrect Month of Election Given Causes Underpayment and Overpayment
- Failure to Discuss Reduced Rate of Entitlement Date Causes Underpayment
- Incorrect Determination on Entitlement Date Causes Underpayment
- Failure to Determine Government Pension Offset Applies Causes Overpayment
- Failure to Include Military Service Credits Resulting in an Underpayment
- Incorrect Posting of Military Service Credits Resulting in an Overpayment
- Incorrect Processing of Military Service Credits Causes Underpayment
- Failure to Identify Military Service Issue Results in an Underpayment
- Failure to Use 2001 Lag Wages Results in an Underpayment
- Failure to Take Action on Wage Gap After 1977 Causes Underpayments and Overpayments
- Failure to Discuss Earnings Record Thoroughly results in Underpayment

An applicant's allegations will go unchecked unless all Internet claims are reviewed by a trained SSA Claims Representative. SSA employees and AFGE are shocked and appalled that such changes will go forward despite the vast number of claims that currently require correction.

### **Internet Proficiency**

SSA employees assist people who are elderly, disabled, uneducated, poor and homeless. Many applicants struggle just to complete simple forms. SSA's applications were created to obtain information which will meet all requirements of the law including identifying potential individuals who may be eligible for benefits on a wage earner's record. As a result, SSA has invested millions of dollars to train its Claims Representatives (CR). However, the Agency now intends to create an Internet application which will not be reviewed by an SSA employee. This is a prescription for disaster.

**SSA asserts that 2.5 million electronic transactions were completed by the public in FY 07.** However, a substantial number of these electronic transactions were problematic to the degree that SSA employees were required to recontact the transactor. SSA employees are very concerned about the direction of the Agency strategy toward unreviewed Internet transactions because few Internet applications are completed accurately and, consequently, require recontact by SSA employees. A Claims Representative from the Seattle region who has processed Internet claims for more than a year recently told AFGE: *"I can only think of 2 which were done right. One was completed by a disabled registered nurse, and the other was completed by a physician who had cancer."*

AFGE recently surveyed SSA employees who process Internet claims. Seventy percent of the employees who responded stated that 90-100% of the claims they reviewed required some kind of re-contact. Such re-contacts included the need to

develop new applications for spouses and children, obtaining correct dates of onset of disabilities, development of the correct month of entitlements for retirement claims, obtaining medical information, development of incorrect wage information, obtaining complete and accurate work histories, identifying government pensions and correct military service information. Employees reported that Internet claims take an average of 2 re-contacts to secure the necessary information to complete the claim. Employees also report that each re-contact takes an average of 30 minutes, which they feel is not reflected in Agency statistics. In many cases, *it takes weeks and even months* to get in touch with the applicant, who thought the claim was completed and, therefore, had no reason to communicate with SSA. Employees strongly believe that if they had assisted the claimants either face-to-face in the office or by telephone that the claims would have been done correctly – without the need for any re-contacts.

Unfortunately, this cannot be verified by Agency statistics. SSA **does not and will not** perform audits on the Internet claims prior to employee review and correction. Instead, the claim is reviewed after an SSA employee makes the necessary corrections. This creates the illusion that the claims were completed correctly by the public. Thus, SSA has no data to indicate that a decision to remove Internet claims review will be beneficial to the public.

### **Loss of Protected Filing**

An application filing date protects a person's claim for benefits. This date is often used to establish eligibility and to determine when benefits can begin. In accordance with 20 CFR .630, 408.330 and 416.330, SSA must use a written statement (such as a letter) indicating the applicant's intent to file for benefits for themselves or another person. This is referred to as a protective filing, which can also serve as an application date. The law is clear that an expression of intent to file for benefits need not be on a specific form or any particular format. Therefore, the same rules apply to oral requests.

Because potential payments are involved, SSA is required to send letters to people who fail to keep appointments and notify them that their benefits will be protected for up to six (6) months. If SSA does not send this letter, the protective filing date is left open and a person could be paid *years of retroactive benefits* if the matter is not dealt with promptly.

However, SSA has decided **NOT** to apply this law to Internet claims. Under the current system, when someone initiates an application on SSA's Internet site but cannot complete it, SSA issues a confirmation number to the individual to re-access the application but the Agency does not consider the unsuccessful attempt to file evidence of a desire to file which would protect the date of filing. When, and if, a person completes the application and "submits" it to SSA, that is considered the date of filing. If a month or more pass, the claimant could have lost benefits. Listings and/or access to partially completed internet claims are not available to field office employees for follow-up purposes. AFGE believes this failure to protect the applicant's intent to file a claim **is a violation of law**. SSA has stated the new Internet application due to be released in September 2008 should establish a protective filing. However, there has been no effort to correct the current situation which due to the complexity of the Internet claims process is common and results in loss of benefits for some applicants.

### **Identity and Privacy Concerns**

SSA employees are unable to identify and verify the person who filed the application for benefits on-line. Employees have become aware of spouses, children, grandchildren, and unauthorized third parties (such as employees of the applicant) filing Internet claims. This leaves the system vulnerable to fraud, as claims could be easily filed with stolen identities. Recent SSA internal reports indicate that applicants continue to struggle to provide accurate, basic information, such as "name" information. In SSA's April 11, 2008 client vs. internet discrepancy report, more than 83% of the applications received had discrepancies in this area. To a trained Claims Specialist, this would be a red flag and suggest that the applicant may not be the number holder, but rather someone else filing on his/her behalf. Without verifying that the number holder actually filed or authorized the claim, the Social Security Number holder's privacy could be compromised if claims are allowed to be processed through the Internet without employee review.

A recent ABC news television report on identity theft showed that it is simple to purchase multiple identity information packages that include Social Security Numbers. Individuals could use such stolen ID information to file illegitimate internet claims without employee review. Such identity theft could result in months or years of benefits prior to detection.

### **Internet Claims Processing and Backlog Potential**

Every office handles these cases differently. In some places, the Claims Representative can schedule an appointment to thoroughly review the application, remind the applicant of the documents that are needed, and check for any possible claims



leads. Most offices force their employees to fit these claims into hours when the office is closed to the public or during overtime. Employees have not noticed any changes in the volume of teleclaims and in office claims due to the accelerated utilization of Internet claims by the public. Claims workload in general has increased as a result of the “baby boom” generation reaching retirement age in 2008. Thus, Internet claims review and recontact workload is an add on that requires finding time to process.

SSA’s records do not always interface with the Department of Defense as they should. The result is that some veterans may not be given credit for their years of service to this country. This applies to Retirement benefits, as well as survivor and child benefits.

“Gaps” also exist in many claimant’s earnings records. If a person worked in a particular year but it does not show on their earnings record, they will not be given credit for those wages. The result (again) is a loss of benefits. Another common problem is “double postings” (being credited with too many earnings in a year) and wages being posted to a person’s record even though the earnings do not belong to them. That will result in overpayments when and if the error is detected. Claims Representatives are trained to look at each of these situations and correct the problems.

Payment errors will increase if claimants are allowed to file Internet claims without review. Claimants are not familiar with the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) provisions of the Social Security Act and the impact of these laws on their benefits.

Applicants are confused when electing their Month of Entitlement (MOE). They generally do not understand how the annual earnings test works. Often, they will take advice from a friend or neighbor whose experience is very different from their own. The result: a loss in benefits (including Medicare at age 65). SSA employees who review Internet claims identify the choice of the month of election as the most frequent error. Currently, if upon review a disadvantageous month of election is found, the SSA reviewer must recontact the claimant and explain why the choice that they made appears disadvantageous. If the claimant insists on picking a disadvantageous month to start their benefits, employees must document the file that an explanation was given yet the claimant chose the disadvantageous start date anyway. The Agency is planning to eliminate this assistance with the introduction of the ISBA in September.

### **Other Problems with Incorrectly Completed Claims**

Claims submitted by spouses, family members or other third parties are often lacking information about prior marriages and/or children from prior marriages and/or relationships. Many times the person completing the forms simply does not know the relationship history of the applicant. By law, SSA considers the names of former spouses and/or children as leads for benefits. Without further investigation by a trained Claims Representative, these potential leads would be missed and family members would not be paid the benefits they are due.

When an identified third party helps an applicant file for Social Security benefits on-line, we are required to obtain an Appointment of Representative (SSA-1696) form, signed and submitted to SSA. We also need Consent for Release of Information (SSA-3288) form signed and submitted before we can release any information to someone other than the claimant. An Internet claim does not identify whether or not an applicant is receiving assistance from a third party.

In spite of the numerous problems with Internet claims raised by the Union, Commissioner Astrue has directed all SSA employees to pass this message along to the public: use the internet **rather than** call the 800-number or visit an office. In some parts of the country, field office employees and teleservice representatives (800-number agents) have been directed to tell every person contacting Social Security: “the next time you have a problem, use our on-line service.” This approach has not been well received and is perceived by the public as rude. Many SSA employees have been documented for poor performance for **not** directing the public to the Internet.

This emphasis on Internet service deviates from the pledge that SSA has made to the American public which is reiterated every year when they are sent their earnings statements from SSA. This pledge is that the public determines which method they will utilize to interact with SSA. It can be in person, by phone, by mail or through the Internet. The Agency now is asking employees to sell the public on Internet claims even though employees realize that phone and/or face to face service is more likely to result in an accurate and complete application. Some Agency letters to the public now only provide the Internet option as the exclusive method for contacting the Agency.

### ***AFGE Recommendations-***

- The Congress conduct field hearings to discuss internet claims with those who take claims and applicants that have been harmed by the process.
- Require SSA Commissioner Astrue to:
  - Restore lag wage development in claims
  - Restore proof of age development using the rules in effect before the 02/08 change
  - Restore proof of citizenship development using the rules in effect before the 02/08 change
  - Maintain a system of employee review of all Internet claims
  - Pilot the new Internet Social Security Benefit Application before Agency wide implementation. Provide Congress with the pilot results which will include an evaluation of claims accuracy prior to SSA employee review prior to implementation
  - Maintain employee review of all Internet applications until it can be shown that the accuracy level of Internet claims matches or exceeds the accuracy level of telephone and in person claims.
- Request Authorizing Committees to hold hearings on the effects of Internet claims on SSA workloads and on claimants.
- Continue to permit SSA customers to select the methodology for interacting with SSA that they prefer.

### **3<sup>rd</sup> Party Claims**

Twice, the Social Security Administration (SSA) has cut front-line staffing in its field offices, and each time Agency managers have turned to third party organizations to “assist” applicants in completing disability benefit applications, a core function of SSA’s Claims Representatives, Field Representatives, and Technical Experts. The first period was during the late 1980’s, when about 17,000 field office positions were lost. We are in the midst of the second. In which more than 6,400 positions have been eliminated, dropping overall Agency staffing to its lowest levels in 35 years. Present staff cuts and increased outsourcing come at a time when unprecedented numbers of claims for disability and retirement benefits are being filed, fueled by the aging of the Baby Boom Generation. SSA officials and Congress should be very concerned about these surges in outsourcing activity tied to staff cuts, because of harm being done to applicants and taxpayers.

SSA is actively training non-profit and for-profit organizations to perform disability claims work again, and is interested in getting employers involved in the retirement claim process. Employers were approached in the 1990’s about completing retirement benefit applications, but declined because they were concerned about liability if their actions disadvantaged an SSA beneficiary. It is too bad that Agency decision-makers are not more concerned about applicants being disadvantaged through third party involvement.

SSA has determined that it is an “inherently governmental function” to make a decision about entitlement or benefit amount, so has properly excluded this function from “competitive sourcing” (contracting-out) through the Office of Management and Budget Circular A-76 process. Yet, the Agency freely outsources these same functions to third parties without any competition, and with no opportunity for SSA workers to show that they do the work best for the American public. SSA officials fail to recognize that in identifying potential applicants, while screening-out others, third parties have already made a decision about entitlement. Because third parties have been found to provide incorrect medical and non-medical information to SSA, through ignorance in some cases and through intent to defraud in others, they effectively make decisions about both entitlement and benefit amount through their actions.

Third parties are always motivated by a desire to entitle the applicant. For-profit third party organizations receive a standard payment when a claim is approved, or a percentage of benefits paid to the applicant. Non-profit entities want to transfer responsibility for medical care and income support to the Federal Government and the taxpayers. SSA employees are charged with applying laws, regulations, and rules fairly and equitably to all who apply for benefits, and thereby protect the interests of applicants and taxpayers.

During an era of labor-management cooperation in the mid-1990’s, senior SSA officials and American Federation of Government Employees (AFGE) leaders agreed to thoroughly examine third party claims issues, to negotiate at the Agency level, and to make consensus recommendations about future activities. The AFGE-SSA Third Party Assistance Team began its work in May 1995, and submitted its first comprehensive set of recommendations in January 1997. The Team wrote and submitted specifications for a third party identifier that would be placed on electronic records so that quality and integrity could be monitored, and limited further third party involvement until a quality assurance system was developed and put in place.

These recommendations and many others were supported by a great deal of data that had been collected and analyzed over the 20-month period. A nationwide survey of SSA managers and staff revealed that third party involvement did not create

operational efficiencies, and that there were serious concerns about quality and integrity. An Office of Program Integrity and Reviews study requested by the Team, and independent investigations conducted by the Office of Inspector General, uncovered fraud schemes and questionable fee-charging arrangements. Non-profit organizations, including a religious order, and for-profit organizations, including one run by a former SSA manager, were implicated in wrong-doing. Criminal middlemen, state government employees, and at least one physician were convicted of stealing money from applicants and taxpayers.

How did Agency leaders respond to the January 1997 recommendations? They pulled the plug on the Team, refused to even consider the recommendations, and announced that they would do what they wanted in the future with regard to third party claims. They soon diverted SSA Office of Training and Office of Systems resources to development of training materials and systems enhancements to serve third parties.

In this Century, with Social Security under attack by the Bush Administration, and outsourcing to faith-based organizations and others in fashion, the Agency has rolled-out training and stepped-up the involvement of third parties. The Agency has abrogated the SSA-AFGE Third Party Memorandum of Understanding that placed sensible limits on the expansion of third party involvement. There is still no third party systems identifier, and no further reviews have been done of the quality and integrity of the claims.

When AFGE had access to SSA information, and when Agency leaders had some interest in the concerns of employees expressed through their Union representatives, we began to understand how third party involvement affected entitlement and payment decisions. This led to a careful, measured approach that has now been abandoned. SSA does not know which benefit applications are secured through third parties. The Agency cannot compare the quality, integrity, or timeliness of third party claims to those taken by SSA employees. It's easier to expand outsourcing when the problems are undetectable.

In another effort to determine how to do the Agency's business with inadequate resources, the Agency has been developing increasingly friendly relationships with 3<sup>rd</sup> parties that want to take over portions of SSA work. The plans for the ISBA application would allow 3<sup>rd</sup> parties to file claims and protect filing dates on behalf of the claimant. Initially, claimants will be required to sign an authorization document to enable 3<sup>rd</sup> parties to act on their behalf. However, SSA's goal is to eliminate that requirement. In fact, SSA intends to solicit 3<sup>rd</sup> parties to engage in bulk filing of electronic claims for multiple claimants. This will enable for profit companies to offer a filing service for claimants in return for a fee. Of course, currently filing applications through the Agency either via the teleservice system, face to face in an office or through the Internet is free. (The service was already paid for through taxes.) AFGE's concern is that expanding 3<sup>rd</sup> party claims opportunities to profit making companies is the first step to potentially contracting out core inherently governmental Agency functions. Allowing 3<sup>rd</sup> parties to file claims on behalf of individuals through the Internet without SSA review would enable these 3<sup>rd</sup> parties to actually authorize payment to their clients. This is a dangerous step towards the privatization of the Agency.

SSA employees complain frequently about the low quality of the work product of many current 3<sup>rd</sup> party claims organizations. Typically states and institutions contract with 3<sup>rd</sup> parties who file disability claims with Social Security to, hopefully, remove such individuals from state benefit roles or to defray an institution's costs of care. The work product is frequently poor and requires recontacts for missing information or to correct erroneous information. Allowing an expansion of this effort to use 3<sup>rd</sup> parties to other types of applications without strict regulatory requirements will only result in problems.

Currently attorneys and other 3<sup>rd</sup> parties are regulated with respect to the fees that they can charge for representation of claimants in hearings before ALJs. No rules exist for representation fees in initial claims. There are currently no regulatory standards regarding competency and fees for 3<sup>rd</sup> parties at the initial claim level.

#### **AFGE Recommendations-**

- Congress should enact legislation limiting contracting out in SSA due to the inherently governmental work of much of the Agency's business.
- Congress should pass legislation proscribing maximum fees for 3<sup>rd</sup> parties in initial claims.
- Congress should pass legislation requiring 3<sup>rd</sup> parties to register with SSA and requiring them to maintain minimal competency standards.
- Congress should pass legislation enabling SSA to revoke 3<sup>rd</sup> parties registration privileges upon discovery of incompetence, fraud, price gauging, etc. SSA should be empowered to sanction 3<sup>rd</sup> parties for inappropriate conduct.
- 3<sup>rd</sup> parties should not be permitted to register if they have a conflict of interest (e.g., relationships with SSA employees).
- 3<sup>rd</sup> party fee structures and complaints against 3<sup>rd</sup> parties and 3<sup>rd</sup> party registration information should be fully disclosed to claimants.

- Access to claimants information protected by the Privacy Act should be severely limited to 3<sup>rd</sup> parties
- Claimants should be required to sign authorizations prior to SSA providing any claimant data to 3<sup>rd</sup> parties.
- SSA should be required to evaluate 3<sup>rd</sup> party performance through accuracy reviews. Such reviews should be released to the public.

It is time for Agency leaders to take responsibility for protecting applicants and taxpayers in the claims process. There is really nothing more important that they should be doing.

## **Office Closures**

Face-to-face interviews in Social Security offices increased by nearly a million visitors from 2006 to 2007. Despite that increase, the Administration has decided to accelerate the closure Social Security offices across the country.

SSA's criteria for office closure consideration are unknown to the union. Last October Commissioner Michael J Astrue informed AFGE that smaller offices in urban areas will be reviewed as office leases approach expiration. However, other high level Agency officials have informed their employees and union officials that SSA will look at all offices of 15 employees or less. When I asked Linda McMahon, Deputy Commissioner of Operations, in October 2007 about the Agency's office closing strategy, she responded that the Agency could close between 50 and 200 offices.

However, in February 2008, Commissioner Astrue publicly denied this after AFGE alerted Congress to the Agency office closing initiative. Last month, Commissioner Astrue testified before the House Committee on Ways and Means and continued to deny the Agency's aggressive office closure efforts. Commissioner Astrue has accused AFGE officials of being partisan and shameful with regards to the Union's communications to Congress. Commissioner Astrue has stated that very few offices have actually been closed and he does not consider two consolidated offices as resulting in an office closure. The record should reflect that AFGE stands by the information it has provided to Congress. AFGE cannot accept the ill conceived notion that consolidating two productive offices into a single location, does not result in one office closing. In fact, we believe the communities that lost their local office to "consolidation" will take exception to that statement as well.

Since the Commissioner's public denial of an office closing plan, AFGE has been notified by SSA that additional offices will be closed in the future. Additionally, AFGE records indicate that in 2007 SSA closed a record number of offices. In 2007, the Administration closed 17 offices including:

- |                              |                     |                   |
|------------------------------|---------------------|-------------------|
| ➤ Burbank, CA                | ➤ Miami-Central, FL | ➤ Nacogdoches, TX |
| ➤ Industry Hills, CA         | ➤ St Louis NW, MO   | ➤ Cheektowaga, NY |
| ➤ San Fransisco-Parkside, CA | ➤ Warrensburg, MO   | ➤ Bronx River, NY |
| ➤ SF Western Addition, CA    | ➤ Auburn, NY        | ➤ Carbondale, PA  |
| ➤ San Pedro, CA              | ➤ Bay Ridge, NY     | ➤ Brentwood, PA   |
| ➤ Hallandale, FL             | ➤ N Charleston, WV  |                   |

In 2008 SSA closed the Oskaloosa, IA office and recently announced its plans to close the Clinton, IA office effective June 1, 2008. SSA has also notified affected employees of its intention to close the St. Paul MN and the Portland OR Teleservice Centers in 2009. Last week, SSA decided to keep the Clinton, Iowa office open. This decision was made after considerable pressure from the Clinton City Council, Representative Bruce Braley, Representative Phil Hare and Senator Tom Harkin.

In recent media publications SSA stated that they agreed to keep the Bristol, CN office open due to an increase in the FY08 budget. This office was scheduled to close in 2007, but will remain open on a year to year basis, depending on budget constraints. Employees in the Clinton, IA office were also told that the Clinton office was being closed for budgetary reasons. The press was informed that the Agency would save \$632,000 over a 5 year period by closing the Clinton office. No verification was provided for the \$10,500/mo rent and utility costs for the 3 person office.

AFGE is very disturbed by these statements. The Commissioner has neither notified Congress nor the union of the level of appropriation required to maintain the current field office structure. If these closures are due to budgetary shortfalls, then why hasn't this been brought to the attention of Congress? Why hasn't the Commissioner notified the Authorizing and/or Appropriating Committee?

In Fiscal Year 2008 Social Security will be at its lowest staffing level since 1972. The Bush Administration and SSA Commissioner Astrue are reluctant to ask Congress for more staff but that is the only answer to this crisis. Yet they are willing to reduce services to the public. AFGE strongly believes that SSA should be providing help through community-based field offices that offer full services. This cannot be accomplished through further reductions of service to claimants and beneficiaries.

SSA pays benefits to about 50 million people every month. Every year, SSA employees handle more than 6 million new claims for Retirement, Disability, and Survivors benefits. SSA also processes 18 million requests for Social Security cards and posts 265 million annual earnings items for covered workers. The Agency expects significant increases in the Continuing Disability Review (CDR) workloads, “no match” cases required by the Department of Homeland Security and the e-verify system. Under legislation proposed by Congressman Schuler and another bill by Congressman Sam Johnson, e-verify would be mandatory and result in 3.6 million additional interviews in the first year after enactment. Closing offices puts a significant burden on these 3.6 million workers to correct their SSA records so that they can work. These workloads will further challenge employees. All this is accomplished at less than 2% administrative costs, while private insurance companies have administrative costs of between 12-16%. **How does closing the field office in your district improve this record of service?**

It has become very clear to the employees of SSA and AFGE that the only effective method to prevent unnecessary office closures is to request legislation to provide for Congressional oversight on decisions impacting Social Security offices. On January 24, 2008, Representative Brian Higgins (D/NY) introduced the Social Security Customer Service Improvement Act, H.R.5110. This legislation provides procedures that SSA’s Commissioner must follow before closing an office. Those procedures include:

- Providing a detailed report to the House Ways and Means Subcommittee on Social Security and the Senate Finance Committee outlining and justifying the process for selecting field offices to be closed or otherwise have limited access. Such report shall include—
  - an analysis of the criteria used for selecting field offices for closure or limited access;
  - the Commissioner’s analysis and consideration must include factors relating to transportation and communication burdens faced by seniors and the disabled;
  - a cost-benefit analysis for each field office closure that takes into account:
    - the anticipated savings as a result of the closure;
    - the anticipated burdens, including communication and transportation burdens, placed on elderly and disabled citizens; and
    - The anticipated costs associated with replacing the services lost by the closure.
- The Commissioner must wait 6 months after the submission of the report to Congress to close or limit access to a Social Security field office.

AFGE urges each Member of this Committee to support and co-sponsor this very important legislation to ensure that customer service is at a level that citizens deserve.

#### **Until such legislation is passed by Congress, AFGE Recommends-**

- Congress passes legislation enacting a moratorium on all office closures.

### **Integrity Workloads**

SSA integrity work (i.e., continuous disability reviews (CDRs) and SSI Redeterminations) has been significantly diminished due to budget cuts. Former Commissioner Barnhart suspended all SSI Redeterminations and Medical Continuing Disability Reviews (CDRs) during particularly tight budget periods. In FY 2008, SSA Commissioner Michael Astrue has significantly reduced these workloads. SSA projects completing 235,000 medical CDRs in FY 08 instead of the scheduled 700,000. Instead of processing 2 million SSI Redeterminations scheduled in FY 08, the Agency will only complete 1.2 million. These reviews return \$10 for every dollar invested in CDRs and \$7 for every dollar invested in Redeterminations. Without these reviews, **billions** of dollars of incorrect payments result. SSA will never collect some of the overpayments caused by insufficient integrity reviews.

Furthermore, the collapse of integrity oversight of SSA’s programs compromises the solvency of the Social Security Trust Fund. According to GAO’s 2004 report on overpayments related to SSA programs, overpayment detections increased from

about \$1.9 billion to nearly \$3 billion between fiscal years 1999 and 2003[5]. In 2005, SSA improperly paid \$6.3 billion. OPM now reports that of eight Federal programs, including SSA's Old Age, Survivors and Disability Insurance and SSI programs, SSA accounted for more than 89 percent of the government's improper payments in FY 2006.

AFGE supports fully funding Continuing Disability Review and SSI Redetermination workloads. AFGE does not support artificial spending limits for such workloads. Congress should authorize the resources necessary so that SSA can produce CDR and Redeterminations levels as envisioned in the Social Security Administration's strategic plan.

#### ***AFGE Recommendations-***

- Congress should authorize the resources necessary so that SSA can produce CDR and Redetermination results as envisioned in the SSA strategic plan.

### **Disability**

Since Commissioner Astrue's arrival at SSA, he has made a few positive changes to address the short term problems regarding disability hearing backlogs, such as targeting cases older than 1000 days and accelerating the rollout of the quick decision determination process throughout the agency. He has worked with OPM and Congress to hire 175 additional Administrative Law Judges (ALJs). He terminated most aspects of the ill conceived Disability Service Improvement plan initiated by his predecessor Jo Anne Barnhart. However, Commissioner Astrue has decided to hire and train insufficient support staff that each new ALJ relies upon to prepare cases for hearing and write and process post-hearing decisions. The Agency intends to hire only 143 support staff for the new judges. SSA budgets 4.3 support staff for every ALJ. 0.8 support staff per the new ALJs falls extremely short of what is necessary to properly assist the ALJs. Failure to provide adequate support staff is a recipe for future disaster and will probably lead to continuing backlogs. The support staff is needed to schedule hearings, assemble case files and evidence, work with attorneys to insure smooth hearings, order and schedule consultative examinations and to write and process the eventual decisions. Absent such support, the system breaks down. Thus, we urge Congress to insist that SSA provide each ALJ with the staff necessary for them to do their job.

Commissioner Astrue has reassigned Agency attorneys to review cases awaiting hearing. These attorneys are empowered to reverse denied reconsideration cases if the evidence indicates a disability. This has been done in an effort to reduce the 752,000 case backlog that existed at the beginning of FY 08. AFGE feels that SSA should expand this effort by utilizing non-attorneys within the Agency that have displayed the ability to make appellate decisions. SSA has previously used non-attorneys in this roll with no evidence of adverse effect in the decision making process (e.g., Adjudicative Officers). The requirement of a law degree for this task limits the Agency's ability to expand the effort to concentrate energies to reduce the disability hearings case backlog and the lengthy processing times.

SSA's approach to disability, past and present, fails to address the problems and inadequacies of the State Disability Determination Services (DDS). AFGE strongly believes that if problems with inconsistent decisions at the initial claims level are addressed, appeals will diminish. Disability claimants deserve consistent initial claims decisions and payments as soon as possible in the claims process.

Unfortunately, the chances for a claimant to be approved at the initial level have a lot to do with where they live and their income rather than the nature of their disability. That's inherent in the system. Each state has different criteria for hiring Disability Examiners. Each state provides them with different pay and benefit packages. Some are unionized- others are unorganized. Each state provides somewhat different training to their employees. Employee retention rates vary dramatically from state to state. In effect, there are 50 different disability programs when there should be one.

For example, State Agency Operations records indicate that those who can obtain medical attention early and often have a better chance of being approved for benefits than those who have limited income or resources. (See Attachment A) Nationwide, those applying for Social Security disability have a much greater chance of being approved than those who only apply for the Supplement Security Income (SSI) program.

So far in FY 08 more than 61 percent of Social Security disability claims for benefits are approved in the Washington DC DDS, while just 30 percent of those who file for benefits are approved in the South Carolina DDS. New Hampshire approves the most initial SSI only disability cases with more than a 55 percent allowance rate. However, residents of Michigan, Ohio, Alabama, South Carolina and Georgia are approved less than 30 % of the time by their respective DDS. The concurrent

disability process shows inexplicable variable allowance rates depending on the state of residence. Allowance rates are low in every state. In New Hampshire and Washington the allowance rate is slightly more than 40 percent of the concurrent SSI/SSA initial disability claims. Less than 18 percent of those filing concurrent disability claims are approved in Georgia and Ohio. There is no evidence to show that residents of some states are twice as susceptible to become disabled as residents in other states. Obviously, different state initial claims approval rates have more to do with the bifurcated system than the health of residents of these states. Claimants are entitled to consistent decisions regardless of their state of residence or whether they are filing for Social Security or SSI disability benefits.

According to the General Accountability Office (GAO<sup>[1]</sup>), a majority of DDS's do not conduct long-term, comprehensive workforce planning, which should include key strategies for recruiting, retaining, training and otherwise developing a workforce capable of meeting long-term goals. The State DDS' lack uniform minimum qualifications for Disability Examiners (DE's) and have high turnover rates for employees and do not provide ongoing training for DE's.

AFGE is convinced that SSA is not able or willing to correct these problems. AFGE has expressed these concerns to the Subcommittee for several years and has seen little improvement with the State DDS situation. The State DDSs are required to use different disability criteria than those at the hearing levels. This has not been addressed by this Administration. It is a key problem that must be reconciled in order to reform the disability system. ***AFGE strongly believes that the only way to resolve the problems that plague the State DDS' is to federalize them. This will bring consistency to the initial claims decisions in the same way that the Supplemental Security Income program that was established in 1974 created a uniform system of benefits for low income blind, disabled and aged population.***

As AFGE has emphasized in previous testimony before the House Ways and Means Social Security Subcommittee, the Disability Claims Manager (DCM) pilot (another SSA initiative) proved to be highly successful in addressing many problems in the disability program. DCMs were responsible for making both the entitlement and disability decisions for initial disability claims. Processing time was significantly better than the bifurcated process. In fact, the DCM processing time of 62 days was just over half of SSA's initial disability claim processing time goal of 120 days. Customer service improved dramatically and claimants expressed record high satisfaction rates with the DCM. The public preferred a process which allowed them to interact with the decision maker. Currently, the only interaction with the disability decision maker occurs at the hearing level when the ALJ conducts the hearing. Observation of the impact of the alleged disabling condition and evaluation of the credibility of the claimant is a prime reason for the high percentage of reversals at the hearing level. If the system was reformed so that claimants could interact with decision makers at all levels, it could result in improvements in the initial claims process.

SSA surveys indicated that the public preferred the DCM caseworker approach to the current process. The DCM was a positive step in ensuring the public that consistent and equitable disability decisions were made by the Agency. Unfortunately, despite the positive DCM experience, SSA terminated the pilot. Although SSA contended that the DCM would cost more than the current process, the pilot was terminated before valid statistical data could be compiled regarding full program costs.

It appears that the primary reason SSA terminated the DCM pilot was due to State resistance. Such resistance certainly was not based on a poor pilot result. Instead the decision appears to have been based on political considerations and the fear of losing work. Although the DDS system is completely funded by SSA, DDS employees are State workers enmeshed in their respective state bureaucracies. Unfortunately this split system is a major reason that so many disability cases are appealed and that the system is broken. Under the DCM pilot, even claimants who were denied expressed satisfaction with the process since they had the opportunity to have the decision explained to them by the DCM. Congress should be very concerned when SSA spends millions of dollars for a process that demonstrably improves the disability processing time and results in high claimant satisfaction but is rejected for political reasons. The concerns of the states are understandable in view of their unacceptably poor performance regarding decision consistency from state to state and their poor processing time in comparison to the DCM. However, the only real criteria should be the level of service that is provided to the claimant. Using customer service as a measure, the DCM exceeds State DDS performance in virtually every category.

AFGE recommended to Commissioner Astrue that he reconsider the Agency decision to terminate the DCM pilot and implement the position of the DCM at SSA as soon as possible. The Commissioner has not acted on AFGE's recommendation. The Union is willing to work with the Commissioner in an incremental approach to improving the disability process. We understand there will need to be changes in policy, processes and institutional arrangements, as well as funding to implement the DCM. However, we feel that federalizing the entire disability process is a key to improving disability claims processing and correcting the current appellate nightmare.

Legislative amendments to the Social Security Act would be necessary to allow SSA workers to make disability decisions; however, the crisis in disability processing requires immediate and long-term changes. When trained to make medical decisions, SSA employees can provide immediate relief to backlogged Disability Determination Agencies and provide faster and better service to the public by serving as a single point of contact. The pilot demonstrates that the public likes the DCM, employees enthusiastically support it, employees are capable of mastering all aspects of the claims process and that it provides substantially better service than the current disability product. As a short-term approach not requiring legislative change, AFGE is supportive of the “Technical Expert for Disability” position. It would provide high quality, trained field office employees the tools to assist disability claimants in both programmatic and medical issues, provide professional, personalized, service to applicants, focus the disability interview, make or recommend disability decisions, and assist the DDS’s in their development and backlogs. This position could be utilized in the Commissioner’s efforts to create a quick decision process for those claimants who are obviously disabled. In fact, training and enabling Technical Experts for Disability at the SSA field office will eliminate the current hand off to the DDS of such claims. This should further streamline the process and result in even faster decisions.

#### ***AFGE Recommendations-***

- AFGE strongly urges Congress to enact legislation which permits federal employees to make disability decisions without requiring the approval of States and take the necessary action to ensure the DCM is part of the solution to the disability problem.
- AFGE requests that Congress examine the current combined federal and state role in the disability claims system and enact legislation to federalize the disability claims process.
- AFGE recommends that Congress urge the Commissioner to eliminate the requirement that post reconsideration disability adjudicators require a law degree.

### **Conclusion**

The Social Security system’s Disability programs are a crucial component of the social safety net, and AFGE’s Social Security employees take great pride in providing service to disability beneficiaries. Employees are sincerely concerned about the wellbeing of disability beneficiaries, and consider their role as helping those who are unfortunate enough to have experienced a disability to obtain the Social Security benefits they have earned.

The Social Security Administration has a long and proud tradition of working constructively with its unionized workforce to make the Social Security system efficient, fair and “customer-friendly.” That is why Social Security remains so popular and successful. It is unfortunate; however, that I must report that the years of doing more with less has had a severe toll on the employee morale at SSA. In a recent AFGE survey of SSA workers, 45% reported that they are dissatisfied or extremely dissatisfied with their work experience at SSA. Survey responses would indicate that employee’s greatest frustrations are staff shortages and a lack of time to process pending cases due to the pressure of constant interviewing. Overwhelmingly, employees report that they do not have enough time to devote to a quality work product, which includes accuracy, complete and proper explanations of rights and responsibilities to clients, investigation of any and all inaccuracies, etc... Backlogs are growing at tremendous rates.

I urge the Committee to do whatever is necessary to insure that SSA receives sufficient appropriations to do the work that Congress demands from the Agency.

AFGE is committed to serve, as we always have, as the employees’ advocate AND a watchdog for clients, taxpayers, and their elected representatives.

This concludes my statement. I will be happy to answer any questions that members of the committee may have.

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[1] GAO Report 04-121, “Strategic Workforce Planning Needed to Address Human Capital Challenges Facing the Disability Determination Services”

[2] SSA Budget FY09

[3] SSA, FY 06 Justification of Estimates for Appropriation Committees

[4] President Bush Budget for FY 08 for SSA, pg 1030

[5] GAO Report 04-924, “SSA Should Strengthen Its Efforts To Detect and Prevent Overpayments”

[6] Soc. Sec. Act as Amended in 1996, Sec. 202(y); P.L. 104-193; P.L. 104-208; P.L.105-33

8 CFR 103.12.



Attachment A- DDS's by State

Effective 4/11/08	T2 Initial		T16 Initial		Concurrent Initial	
	Allow	Deny	Allow	Deny	Allow	Deny
<b>NATIONAL AVERAGE</b>	<b>45.8</b>	<b>54.2</b>	<b>35.9</b>	<b>64.1</b>	<b>25.5</b>	<b>74.5</b>
<b>BOSTON Region</b>	<b>52.3</b>	<b>47.7</b>	<b>41.6</b>	<b>58.4</b>	<b>29.5</b>	<b>70.5</b>
Connecticut	45.7	54.3	31	69	21.7	78.3
Maine	48	52	39.7	60.3	22.7	77.3
Massachusetts	55.4	44.6	46.5	53.5	31.1	67.9
New Hampshire	58.8	41.2	54.9	45.1	41	59
Rhode Island	48.7	51.3	34.8	65.2	25.9	74.1
Vermont	59.1	40.9	48.1	51.9	38.9	61.1
<b>New York Region</b>	<b>53.8</b>	<b>46.2</b>	<b>41.2</b>	<b>58.8</b>	<b>33.1</b>	<b>66.9</b>
New Jersey	58.7	41.3	41.1	58.9	33.6	66.4
New York	56.3	43.7	41.2	58.8	32.9	67.1
Puerto Rico	41.6	58.4	-	-	-	-
<b>Philadelphia Region</b>	<b>48.5</b>	<b>51.5</b>	<b>36.8</b>	<b>63.2</b>	<b>25.2</b>	<b>74.8</b>
Delaware	58.1	41.9	42.7	57.3	33.7	66.3
Maryland	48.9	51.1	36.6	63.4	25.8	74.2
Pennsylvania	49.9	50.1	37.5	62.5	23.7	76.3
Virginia	49.2	50.8	38.2	61.8	30.5	69.5
Washington, DC	61	39	47.5	52.5	38	62
West Virginia	36.9	63.1	27	73	16.5	83.5
<b>Atlanta Region</b>	<b>36.6</b>	<b>63.4</b>	<b>29.8</b>	<b>70.2</b>	<b>20.9</b>	<b>79.1</b>
Alabama	44.1	55.9	29.4	70.6	22.8	77.2
Florida	39.6	60.4	36.0	64.0	25.2	74.8
Georgia	30.9	69.1	25.8	74.2	17.9	82.1
Kentucky	37.3	62.7	30.2	69.8	18.6	81.4
Mississippi	30.3	69.7	21.6	78.4	17.2	82.8
North Carolina	38.6	61.4	31.2	68.8	21.4	78.6
South Carolina	34.6	65.4	28.8	71.2	21.1	78.9
Tennessee	31.6	68.4	25.4	74.6	16.8	83.2
<b>Chicago Region</b>	<b>44.4</b>	<b>55.6</b>	<b>30.9</b>	<b>69.1</b>	<b>22.6</b>	<b>77.4</b>
Illinois	49	51	32.5	67.5	27.3	72.7
Indiana	44.8	55.2	34.5	65.5	27.1	72.9
Michigan	41.4	58.6	29.9	70.1	20.1	79.9
Minnesota	45.9	54.1	37.8	62.2	23.8	76.2
Ohio	40.2	59.8	25.8	74.2	18.2	81.8
Wisconsin	49.5	50.5	36.3	63.7	25.4	74.6
<b>Dallas Region</b>	<b>48.9</b>	<b>51.1</b>	<b>40.2</b>	<b>59.8</b>	<b>31.7</b>	<b>68.3</b>
Arkansas	48	52	33.7	66.3	28.1	71.9
Louisiana	48	52	32.6	67.4	29.5	70.5
New Mexico	43.1	56.9	25	75	35.5	64.5
Oklahoma	48.5	51.5	41.0	59	31.1	59.9
Texas	50	50	43.9	56.1	34	66
<b>Kansas City Region</b>	<b>47.9</b>	<b>52.1</b>	<b>33.4</b>	<b>66.6</b>	<b>21.1</b>	<b>78.9</b>
Iowa	42.3	57.7	33.2	66.8	19	81
Kansas	48.6	51.4	36.8	63.2	20.8	79.2
Missouri	49.3	50.7	31.4	68.6	21.7	78.3
Nebraska	51.0	49.0	38.8	61.2	21.4	78.6
<b>Denver Region</b>	<b>46.2</b>	<b>53.8</b>	<b>42.5</b>	<b>57.5</b>	<b>25.0</b>	<b>75.0</b>
Colorado	42.3	57.7	38.7	61.3	23.3	76.7
Montana	51.1	48.9	44.1	55.9	27.2	72.8
North Dakota	50.2	49.8	39.7	60.3	19.3	80.7
South Dakota	48.4	51.6	36.5	63.5	20.4	79.6
Utah	47.6	52.4	54.8	45.2	30	70
Wyoming	55.5	44.5	44.4	55.6	37.7	62.3
<b>San Francisco Region</b>	<b>47.7</b>	<b>52.3</b>	<b>41.1</b>	<b>58.9</b>	<b>28.9</b>	<b>71.1</b>
Arizona	43.3	56.7	42.1	57.9	26	74
California	47.7	52.3	40.6	59.4	28.7	71.3
Hawaii	56.9	43.1	57.0	43.0	40.8	59.2
<b>Seattle Region</b>	<b>48.4</b>	<b>51.6</b>	<b>43.5</b>	<b>56.5</b>	<b>25.7</b>	<b>74.3</b>
Alaska	50.3	49.7	47.1	52.9	31.5	68.5
Idaho	47.3	52.7	44.8	55.2	25.4	74.6
Oregon	44.6	55.4	42.2	57.8	23.2	76.8
Washington	50.8	49.2	43.5	56.5	26.6	73.4