



Working With the Social Security Administration: Some Thoughts for the Perplexed

By Michael J. Astrue, Former Commissioner, Social Security Administration

I moved back to the Boston area last year after my six-year term as Commissioner ended. It has mostly been a joyous transition for me, but one small but recurring annoyance is that one of my radio stations keeps playing advertisements for a financial advisor who scares senior citizens with inflammatory rhetoric about the Social Security Administration. The ad doesn't *actually* play the Darth Vader entrance music, but it comes close.

The agency does not deserve that kind of smear, and you should not think of it as an ominous, monolithic entity. No large organization is perfect, but Social Security employees are typically smart, knowledgeable and caring, which is not to say that they are perfect. Their jobs are difficult and they do make mistakes from time to time. Moreover, their programs are complex, their programs require enormous IT systems to function, and their resources dwindle each year, which puts increasing pressure on quality.

Resource reductions through the Congressional appropriations process are at least fairly obvious. What is less obvious is that the workloads for non-core programs have increased astronomically in the past decade, primarily by making SSA the identity verification agency for much of the public and private sector. All of these factors can make it difficult to work with the agency to make it function better.

When I was Commissioner, I changed agency practice and started taking members of Congress through the waiting rooms of SSA field offices so Senators and Representatives could see for themselves what they had wrought. As we entered a waiting room, I would whisper, "Do you see anything here that surprises you?" They hated being asked a question without knowing the scripted answer, but I did it anyway to impress upon them that the vast majority of people waiting for service were not, as they imagined, applying for retirement or disability—they were mostly poor and working class Americans who had failed to receive some federal or state benefit, or had failed to qualify for employment. They often brought their children to wait with them because they had no other option for child care.

If you want to be an agent of change for this or any other problem, you can find good agency employees who want to make the agency better. However, you also need to understand that they are stressed and do not have a lot of time or resources, so you need to be thoughtful and well prepared. You also need to understand they have constraints. In some senses, SSA is an "independent agency," but as a result of presidential executive orders,

any initiative or agency statement that proposes or makes a significant budget or regulatory change has to be approved by the Office of Management & Budget, an often insurmountable barrier when it comes to new spending- even in those rare instances where a proposal is cost-neutral or funding is available.

The constraints upon the agency mean that it is much easier to drive change through many incremental changes than to re-engineer the agency, as a number of academics are proposing. Congress hasn't passed significant Social Security legislation in 15 years, and probably would not do so for at least 15 more years but for the fact that the disability trust fund becomes insolvent in 2016 or 2017. Even then it is unlikely that Congress will tinker with the basic structure of the program; it almost surely will focus on "efficiencies" and "fraud prevention" to delay insolvency a few years.

Advocates may not be able to re-engineer the agency, but they do have opportunities to make meaningful change if they are diligent, polite and persistent. Let me give you some specific examples of opportunities and methods:

Field office service:

The timeliness of service varies considerably around the country. An advocate's first step should be to identify those variations by talking to a regional official who has access to the most recent data. A good place to start would be the regional Communications Director for your state. You can find a recent list of Communications Directors by state at <https://www.ssa.gov/agency/rcds.html>.

Much of the state-by-state variation in service turns on variations in staffing; some of the variation is due to history and political constraints. The agency stopped adding field offices about 40 years ago after the implementation of the SSI program, but Congressional opposition to closing offices has had the effect of freezing the distribution of staff based largely on 1975 demographics. In other words, there is more field office staff per capita in the Frost Belt than in the Sun Belt. For many years, the agency also unintentionally aggravated this problem by using a flawed formula for distributing field office employees that under-accounted for the intensity of SSI work, which resulted in under-staffing lower income field offices. I changed that formula about five years ago, but the combination of funding cuts and civil service protections means that SSA is still phasing in that adjustment.

So, what can you do? There is another critical factor that you can influence. To go back to the crowded waiting rooms, millions of those people are there, losing wages in many cases, because state and local governments are unnecessarily sending them there. Sometimes it is a state welfare agency trying to cut down on TANF applications by requiring all

applicants, including those who are perfectly healthy, to apply for disability first as a way of slowing and deterring TANF (Temporary Assistance for Needy Families) payments. Sometimes it is a state department of motor vehicles requiring inspection of a Social Security card as proof of identity instead of the using the more efficient and more fraud-proof electronic verification.

Perhaps the worst waiting times in the country have been in one of our largest cities, and much of that problem is clearly attributable to its mayor repeatedly refusing to link electronically with the Social Security Administration for a range of public benefit programs, even though most other cities in the state have done so. As a consequence of this resistance, citizens of this city have lost countless hours of their time and dollars clogging field offices while waiting for a service that should have been done electronically. Such practices also prevent claims representatives from spending sufficient time with people with problems who truly need personalized service. For information about data exchanges, you can go to: <https://www.ssa.gov/dataexchange/>. You can also send questions to: ORDP.Data.Exchange@ssa.gov.

How do you find out about these barriers to quality service? First, identify the outliers in the waiting-time data. Second, join with other advocates for the elderly, the disabled, the poor and others in writing a joint request to your regional communications director and ask for a meeting to discuss the reasons for the disparities. The regional commissioners are the officials closest to these issues, and in most cases will welcome advocates who want to help reduce waiting times. Third, once you identify causes of the problems, visit your state legislators, your city council members, and other political leaders to make the case for cooperation that improves service to the public. In most cases, senior public officials will be unaware of these problems and their causes, and will be eager to push for improvements.

It is also important to understand that electronic services will inevitably become more important in the coming years, and educational efforts about how best to use these services are critically important. It is particularly important to educate people to hold onto their notices from the agency and to tell them what other information they will need to authenticate their identity and get their issues resolved quickly and easily.

Regular surveys show that SSA's electronic services are the best-liked in the federal government, but there is always room for improvement. If you identify confusing language or a confusing format in an SSA electronic service (or if you want to commend them for an improvement!), you can email the right people at the agency by following the links at: <https://secure.ssa.gov/emailus/>.

Notices:

I am old enough to remember the creation of Acting Commissioner McSteen's first office to coordinate notices to the public in the mid-1980s. It is an important area for better performance because the agency sends about 350 million notices to the public each year.

Unfortunately, before my return to the agency in 2007, some well-intentioned person decided that each new or revised notice had to compete with new IT projects in the agency's internal budget process. That decision was a mistake because very few notices could adequately document a return on investment in the same way that competing IT projects could. Notices sat on the shelf even when confusion reigned in the real world. A few years later, another well-intentioned person made the even worse decision to abolish the office because it wasn't sending out new notices or revisions to old ones. As a result, SSA was aggravating the public and its own workload issues by directing people to take actions contrary to current agency policy.

Fixing notices isn't easy due to a platform notices technology intricately embedded into other systems, but at least the agency is trying. Outdated legal orders and the inherent complexity of the program are also barriers to clear, plain language in notices. Snarky letters attached to marked-up notices loaded with exclamation points don't do much good, but capable people in the notices office do want to fix stilted or outdated prose that confuses or misdirects the public. If you are upset by a notice, take the time to write a thoughtful letter explaining the problem, suggest a solution, and send it to: <https://www.ssa.gov/agency/plain-language/>. You can use this part of the website to communicate with the agency either about murky prose or more substantive issues with notices.

Disability determinations:

The complexity of making about three million disability determinations each year gives the agency wider latitude than in other areas to make changes that matter in its medical rules. For instance, the introduction of compassionate allowances and QDD (quick disability decisions) means that about a quarter million claimants receive an expedited decision in one to 15 days. Since most of these claimants were suffering from an extremely rare condition, the accuracy rate of these cases had been extremely poor and had required more paperwork and appeals than required. In this case, innovation turned out to be a win-win-win proposition for the public, the agency and taxpayers.

When I returned to the agency in 2007, some of our medical regulations had not been updated since the 1970s. We set out not only to update the oldest ones, but to review all regulations on a three-to-five- year cycle.

Expansion of the compassionate allowances list and clarifications of existing medical regulations do not require the laborious notice-and-comment rulemaking process; for clarifications program instructions and Commissioner's rulings tend to be faster and less cumbersome. Accordingly, I generally recommend against waiting until the agency solicits comments for proposed changes to its medical regulations. Comments relating to the urgency of change sometimes affect the timing of agency action, and sometimes change is possible without rulemaking. For proposed additions to the compassionate allowances list, you contact the right people

through: <https://www.ssa.gov/compassionateallowances/>. For input on medical listings (aside from regulations going through formal notice-and-comment), you can contact the right people through: ODP.Controls@ssa.gov.

Fraud:

The Inspector General has a hotline for reports of waste, fraud and abuse; you can report suspected cases at: <https://secure.ssa.gov/pfrf/home>. Perhaps the most common fraud is failing to report the death of a retiree, but people do fake disabilities as well; please be mindful that some disabilities, such as early Alzheimer's, might be difficult to detect from visual observation.

Social Security employees are almost invariably honest, but a few employees disappoint the agency each year. If you see a case of selling of Social Security cards, systematic favoritism toward an attorney or financial conflict of interest, you should not hesitate to report those cases, as well. We all have an interest in preserving the integrity of the disability programs.

Hearings and Appeals:

Historically, the Social Security Administration took a very hands-off attitude toward its hearings and appeals component, known as ODAR. That culture has changed in many ways, particularly with regard to misconduct by judges. It also means that there is a state-of-the-art quality control operation run by the Appeals Council. If you are an advocate for people going through the appeals process and you see a pattern of rulings that you think is out of line with agency policy, your best bet is to write to the Chief Judge at your closest Hearing Office and ask him or her to raise the systemic issue that concerns you with the quality control staff within the Office of Appellate Operations. Please try to use this approach for broad issues, not to reargue a recent specific ALJ decision that disappoints you.

Legislation:

It is likely that Congress will take up disability legislation in 2016 shortly before the trust funds become unable to pay full benefits. Given that people receiving benefits will be staring at a loss of about 25% of their benefits, Congress will be looking to reduce costs, not add to them, but cost-neutral proposals that would benefit the disabled might become extremely attractive to Congress as they look to balance out their package.

One such proposal that has some quiet support in the disability community but failed to attract much attention so far is the SSA “WISP” proposal, which is the product of a 30-month effort by the agency to simplify the extraordinarily complex statutory rules about returning to work that end up with the unintended result of discouraging work. WISP was originally going to be proposed by the agency as permanent legislation, but it became an authorization for a “demonstration project,” based on last-minute concerns at OMB about small out-years costs produced by the same kind of inappropriate static economic modeling that punished work by retirees through the original Social Security earning test. Those concerns, by the way, may no longer be even arguable due to subsidies for health insurance that are now available through the Affordable Care Act.

The proposal is laid out online

at: <https://www.ssa.gov/disabilityresearch/documents/WISP-final%20report-5-1-12COMPLETE.pdf>. It is tough reading, but slog through it anyway, remember real-world anecdotes about the frustrations of the current statutory scheme and then make an appointment to talk to the district managers of your local Senators and Representatives about the need to fix current laws.

I think that WISP would be an important step forward for the relatively small percentage of people receiving benefits who may be able to return to work; it is important both for them and for the solvency of the disability trust fund that we do not block people who want to work from doing so. The current statutes that discourage return to work are so complex that there are many different ways to achieve the same goal; for now the details are not as important as getting the issue on the radar screen of a Congress focused on other issues.

Conclusion:

As daunting as it is to approach Congress or a huge agency such as SSA, individuals can make a difference. Shortly before I left as Commissioner, an active member of the Special Needs Alliance took advantage of an opportunity to talk to me about the need for administrative reforms in the special needs area, which was a subject no one in or outside the agency had raised with me before. If we had talked a few months sooner, I probably would have made even more changes.

To sum up, look for opportunities for change and do not be afraid to make your case to SSA or to Congress when you have the opportunity to do so. There will always be a random element in the way senior officials respond to your advocacy, but it is important to be prepared, professional and persistent.

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