

Third Party Disability Claims and Appeals

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Faced with record numbers of disability benefit applications and appeals resulting from the aging of the workforce and the recession, and depressed staffing and administrative budgets, SSA has increasingly turned to “third parties” to handle these increased workloads. The Agency provides cursory training to some of them, and establishes ongoing working relationships with all of them. This creates serious problems for Agency employees and, most importantly, for the public we serve.

Third party organizations, by screening potential clients in order to determine which applicants and appellants should be served, effectively make decisions about their possible entitlement or non-entitlement to cash benefits and medical coverage. They make medical assessments, although very few of them have the medical training needed to judge whether an individual may be eligible for benefits. This constitutes the outsourcing by SSA of inherently governmental functions that should only be performed by Agency employees. Third parties do not have complete up-to-date knowledge of complex and ever-changing SSA programs and policies.

When people are presumed not eligible by third parties, and are turned away when they come to them first, most will not then come directly to the Social Security Administration for a second opinion. If they were improperly screened-out as ineligible by third parties, they will therefore lose benefits. Allsup Inc., a large for-profit third party organization, states that 98% of its clients’ initial claims are allowed. Overall, 46% of all applications are approved. How many eligible clients do Allsup and other third parties turn away by “cherry-picking” only those individuals whose claims are most likely to be approved?

Third parties are motivated by the desire to get individuals onto the Social Security and Supplemental Security Income rolls, and off of other private or public benefit programs. Some are also motivated by profits earned only if claims and appeals are approved, and only choose to serve those most likely to be awarded benefits. For-profit or non-profit businesses, and state and county government employees, probably complete more disability claims and appeals overall than do SSA employees. SSA employees do not turn anyone away, and we are motivated only by our responsibility to fairly and equitably administer SSA programs, not by a desire to maximize profits, or to shift costs for income support and medical care to the Federal taxpayers.

Filing an application for benefits is a serious matter, which involves the exercise of rights and the acceptance of responsibilities by the claimant. Our Agency had historically been very careful to ensure that only proper applicants are recognized in the claims and appeals processes (either the applicants themselves, or other individuals appropriately filing on their behalf such as legal guardians and parents of minor children). However, SSA policy is changing to allow anyone to file a benefit application or an appeal on behalf of anyone else. Unless an applicant files with SSA, claimant rights and responsibilities are not explained in person by an Agency employee, as is required by the Social Security Act according to the Agency's own Office of General Counsel. Proper applicants and improper applicants who file through third parties rarely have rights and responsibilities personally explained to them by an SSA employee.

SSA does not validate the identities of applicants and appellants, and cannot be sure (especially with online filing) that the persons are who they claim to be. Without validation of identity, the Agency opens up the programs, and the taxpayers who support them, to fraud and abuse.

A 1996 AFGE/SSA survey of employees and managers established that there were grave concerns about the quality and integrity of third party claims, and revealed instances of fraud and abuse. Most respondents said that third party involvement did not necessarily save time for Agency employees who process claims. The National Council of Social Security Management Associations recently surveyed its members, and confirmed that third party involvement does not save time for SSA employees responsible for adjudicating claims. These problems persist, and SSA has lost even more control over the most critical aspects of its work, in part because the Agency rejected a 1997 Union-Management recommendation to annotate systems records with a third part involvement indicator, and to conduct ongoing quality and integrity reviews of third party claims.

AFGE urged Commissioner Astrue to protect the rights of every applicant who attempts to enter the claims process through third party involvement, by requiring these surrogates to document the date of first contact as the filing date, even if the individual is screened-out as ineligible by a third party. The Union's recommendation was received, acknowledged, and referred to Agency attorneys and policy experts in November 2009. Unfortunately, neither the Commissioner nor his designees have yet done anything to protect clients who file claims and appeals through third parties, or who are denied the opportunity to file claims and appeals by them.

AFGE urges Congress to hold hearings as soon as possible, to which the Union is invited to testify, to carefully examine SSA's policies and procedures regarding third party involvement in disability claims and appeals. Our concerns for applicants and taxpayers are clearly not shared by Agency leadership. Change is needed now to mitigate the damage to eligible clients who are being turned away, and to protect the programs and the taxpayers from third party fraud.