

iClaims 2010

February 2010

AFGE Council 220 feels it is necessary to set the record straight with regard to SSA's allegations concerning "AFGE's resistance to technology." SSA Officials have invested much of their time on Capitol Hill falsely accusing AFGE of being opposed to technology changes, and nothing is further from the truth.

AFGE and its officials have embraced technology, and have been head and shoulders above SSA in the quest to become modernized. AFGE utilized email, cell phones, PDAs, and computers with up to date programming such as Power Point and spread sheet technology long before SSA moved forward. As this is written, SSA is implementing computer software changes to "update" all SSA desktops and laptops with the Vista Operating System, which is now obsolete and has been replaced with Windows 7.

Let the record reflect, this slanderous campaign is nothing more than an attempt to take the attention off the flawed policies and procedures implemented by SSA, that are being used to facilitate the premature implementation of the iClaims initiative. Congress should pay close attention to the facts about iClaims and the financial impact it has on their constituents, ***Not to SSA's smoke and mirrors.***

The Social Security Administration has dabbled in Internet services for almost a decade, but with mixed results. On the positive side, service can be initiated, and sometimes delivered, without contacting an SSA employee. The negative affects are not so obvious, and are not acknowledged or made public by the agency. Unfortunately, little has been done to correct the serious problems.

They include:

- Programming flaws and policies that fail to correctly identify "protective filing dates"
- Identity and privacy concerns
- Incorrect payments
- High volume of errors, resulting in re-contacts.
- Creation of a new backlog at Social Security
- Failure to authenticate the identities of applicants

SSA employees assist people who are elderly, disabled, uneducated, poor and homeless. Many of our applicants struggle just to complete simple forms. SSA's applications have been created to obtain information that will meet all requirements of the law. As a result, SSA has invested millions of dollars to train its Claims Representatives (CR). However, the agency now believes someone without training or assistance can perform these functions correctly and efficiently. This is simply **not** the case.

Commissioner Astrue has testified that iClaims are more accurate than claims taken by SSA employees. What he is not telling Congress is that ALL iClaims are reviewed and corrected by SSA employees before payment can be authorized.

Therefore, his claim cannot be verified by agency statistics. SSA **does not and will not** perform audits on the Internet claims at the point the applicant submits them. Instead, the claim is reviewed *after* an SSA employee makes the necessary corrections. *This creates the illusion that the public completed the claims correctly.*

Earlier this month, AFGE surveyed SSA employees responsible for reviewing and correcting iclaims. AFGE found that very little has changed in the last year. ([See iClaim Survey Attachment for detailed results](#))

- 45% report backlogged iClaims of 1 week or more.
- 95% reported it is necessary to contact the applicant.
- 66% reported that contacts to correct marriage information were necessary for more than one-half of all claims.
- 51% reported that contacts are needed regarding incomplete information about children in more than one-half of all claims.
- 64% reported that re-contacts were necessary in more than one-half of all disability claims to determine a correct date of onset of the disability.
- 87% reported that insufficient medical information to process the claims is submitted with Internet disability (eDib) claims.
- 67% report that more than one-half of all eDib applications have incomplete work histories.
- 65% reported that more than one-half of all applications are submitted with incomplete or incorrect wage information.
- 43% reported that more than one-half of all applications contain inadequate information regarding government pensions.
- 41% reported that more than one-half of these claims contain incorrect military information.
- 70% reported that applications requiring a contact result in 2 or more re-contacts.
- 61% reported that contacts with applicants take 30 minutes or more on average.
- 45% reported that applications submitted by “third parties” are more error prone than those submitted directly by the applicant.
- 60% reported that they disagree with SSA’s policy to refer the public to the iClaim system, rather than to a Claims Representative.
- 81% reported that they disagree with SSA’s policy that employees should not help applicants decide which month it would be best for benefit payments to begin
- 71% report that SSA’s recently updated policies are in conflict with earlier instructions that have not been rescinded regarding “month of election” to benefits.
- 60% reported that they disagree with SSA’s policy to forego development of recent earnings when processing applications.
- 44% believe that someone other than the proper applicant may file more than one-half of Internet applications.

Applications that have been incorrectly completed require SSA employees to contact and re-contact applicants who believe that they have completed the process. In many cases, **it takes days or weeks** to get in touch with the applicant. Employees strongly believe that if they had taken these claims, they would have been done correctly – without the need for any re-contact!

In spite of these fundamental problems, Commissioner Michael Astrue has:

- increased the goal for claims completed on the Internet, rather than with SSA employee assistance, to 50% by the end of FY 2011;
- directed all SSA employees to aggressively promote this goal, and pass this message along to the public: use the Internet **rather than** call our 800-number or visit a local SSA office.

In some parts of the country, field office employees and 800-number agents have been directed to tell each and every person contacting Social Security: *“the next time you have a problem or want service, use our on-line services.”* This approach has not been well received and is perceived by the public as rude. Some SSA employees have been documented for **NOT** telling the public to use the Internet.

Claims submitted by spouses, children, other family members, or other third parties often lack 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 must consider possible benefits for former spouses and/or children when processing an application. Without a proper interview and further investigation by a trained Claims Representative, these potential leads can be missed, and family members will 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. We also need a Consent for Release of Information (SSA-3288) form signed and submitted before we can release any information to someone other than the claimant. The Internet claim system does not include these forms.

SSA employees are unable to identify and verify the person who filed the application for benefits on-line. We have become aware of spouses, children, grandchildren, and unauthorized third parties (such as employees of the applicant) filing Internet claims. This leaves the system wide open for fraud, as claims can be easily filed using stolen identities. There is **no authentication** of the applicant’s identity at all, which is an industry standard for electronic financial transactions.

New Policy Updates

The Commissioner announced last year that SSA’s iClaims process would be updated to allow claims to go through, starting this year, without any review by an employee. SSA employees and AFGE were shocked and appalled that such changes would proceed, due to the vast number of claims that require correction before decisions about entitlement or payment amount are effectuated.

It has recently been brought to our attention that the Commissioner requested a review of the iClaims process, to determine if the allegations by AFGE were, in fact, accurate. As a result, he has put the self-adjudication process on hold indefinitely.

SSA has been outsourcing inherently governmental functions of the Agency, by training and encouraging “third parties” to secure and develop retirement and disability benefit applications. According to the

Office of Personnel Management, an “Inherently Governmental Activity” is one so intimately related to the public interest that Government employees must perform it. These functions include activities that require either the exercise of discretion in applying Government authority, or the use of value judgments in making decisions for the Government. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States including:

- Binding the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;
- Determining, protecting, and advancing economic... property, or other interests by contract management, or otherwise;
- Significantly affecting the life, liberty, or property of private persons; or
- Exerting ultimate control over the acquisition, use, or disposition of United States property (real or personal, tangible or intangible), including establishing policies or procedures for the collection, control, or disbursement of appropriated and other federal funds.

The completion and development of retirement and disability benefit applications are, without a doubt, inherently governmental functions that should not be outsourced.

As we move toward automated adjudication of claims, SSA employees are experiencing a fundamental cultural change in the agency’s traditional mission to pay the right person, the right amount, at the right time. SSA employees are now being instructed to stop providing information to the public regarding month of election decisions, there are limited reviews of internet claims, and applicants are expected to figure out for themselves which benefits they should apply for when they have potential entitlement to more than one type. Navigation through the complexities of the Social Security Administration’s programs is fast becoming the responsibility of the claimant, rather than that of the Agency and of trained government employees.

The risk of benefit fraud is increased exponentially by plans to eventually process Internet claims to pay without employee contact or review. There is nothing to stop an individual from applying under someone else’s Social Security number as long as they know the required basic identifying information, information that most spouses, ex-spouses, and identity thieves know or have access to. Commissioner Astrue’s policies and plans open new paths to fraudulent claims and overpayments, as do his initiatives to increase third party involvement in the claims filing process. SSA employees have already been restricted from providing information about client month of election options. The policy is designed to pave the way for complete automation of claims processing.

Commissioner Astrue also intends to implement Claims Data Web Service/Third Party Bulk Claims Filing. Under these initiatives, SSA is soliciting private companies to take and electronically file retirement benefit applications. SSA is revising its long-standing regulations on who is considered a

“proper applicant,” so that private companies can take Social Security claims for their employees who are retiring. Initially, SSA employees would process the claims. However, again, with SSA’s revised claims policies, some applicants will lose out on potential benefits and others will be overpaid, costing the Trust Funds. The Commissioner’s current policy of processing claims to pay without SSA employee assistance and limited review is in striking contrast to an SSA General Counsel opinion provided in 1996 and documented in a 1997 SSA/AFGE Third Party Assistance Team report to the AFGE/SSA National Partnership Council that only SSA employees may legally provide reporting rights and responsibilities to applicants. The opinion further stated that the rights and responsibilities must be communicated to applicants in person, by phone or in person. Internet applications fail to meet this basic standard set forth by the Agency’s legal office in 1996, its own interpretation of the requirements of the Social Security Act.

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 written statements to establish applicants’ intent to file for benefits for themselves or for other persons. This is referred to as a protective filing, which serves to establish 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 benefit rights 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 closed-out properly.

However, SSA has decided **NOT** to apply this law to Internet claims. Under the current scenario, when someone initiates an application on SSA’s Internet site but cannot complete it, the claim sits in cyberspace, unprotected. SSA issues a confirmation number to the individual to re-access the application. When, and if, a person completes the application and “submits” it to SSA, that is considered the date of filing. Listings and/or access to partially completed Internet claims are not available to field office employees to follow-up on. AFGE believes this failure to protect the applicant’s intent to file a claim is a violation of law.

Internet Claims Processing and Backlog Potential

Offices handle Internet claims differently. In a few 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 their ever-dwindling “free time” between scheduled and unscheduled interviews. That most common method reduces adjudication time, the time needed so that pending benefit applications can be processed. Unlike the Medicare Part D subsidy program, SSA was not allocated any extra staff to handle Internet claims. Nor have we been given overtime to process this new and growing workload. The potential for backlogs is great.

Payment errors will increase. Claimants are not familiar with the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) provisions of the Social Security Act. One question asks about “non-covered earnings.” How many people know what that is?

Applicants are often confused when choosing their Month of Entitlement (MOE). They do not know how the “annual earnings test” works, or what a “grace year” is. Very often, they will take advice from a friend or neighbor whose experience is very different from their own. The result can be a loss in benefits, including Medicare benefits. SSA employees identify this as the most frequent error made in Internet claims that they are assigned.

The unnecessary withdrawal of applications will increase. This will be especially important for people who aren’t sure whether they should file for Retirement benefits or as a Widow/Widower. When interviews are done over the phone or face-to-face, we can screen the applicant to see which benefits are most advantageous for them. We can also explain the annual earnings test. Many people think they qualify for retirement benefits just because they are 62 years old, even if they continue to work at high earnings.

AFGE urges Members of Congress to:

1) Direct Commissioner Astrue to:

- Cease implementation of any and all systems and/or policy changes that will result in, cause or allow incorrect entitlement decisions and benefit payments.
- Cease and desist in outsourcing Social Security Retirement and Disability claim functions;
- Institute policies that require SSA employees to contact all claimants filing their Retirement or Disability claims over the Internet, so that rights and responsibilities are explained;
- Review all previously processed Internet claims to ensure that those persons were entitled to the right benefits, and at the right amount.
- Perform audits on a statistically valid sample of submitted Internet claims, prior to SSA employee intervention, and report back to Congress by the end of FY 2010. The audits should capture the accuracy of the claim, any payment errors found, and the need to hand off to an SSA employee before a final decision.
- Provide Congress with the SSA General Counsel’s guidance/rationale for concluding that the initiation of an Internet claim does not constitute a protective filing by law.

2) Request Authorizing Committees to hold hearings on the effects of Internet Claims on SSA workloads and beneficiaries, with the employees’ AFGE representatives invited to testify.