

# SOCIAL & SECURITY *& YOU*

FROM THE OFFICE OF ATTORNEY WILLIAM CRAWFORTH

SPRING 2019

## Message From Attorney Crawford

### AN OPIOID STORY

I've changed his name. Let's call him Gerald.

He was a laborer. And by that I don't mean that he just did physical work. He was a card-carrying member the Labor's Union local. And that meant a lot to him.

I represented him for Social Security disability and Michigan Worker's Compensation benefits.

Gerald was in his mid-50's, although he looked older. He looked like a biker, although he was about my size. Heavily tattooed. His Fu Manchu was braided. He reported a couple of injuries working for a pipeline company. His story was confusing.

Gerald said he had been struck by his supervisor's pick-up truck leaving the job site. He'd injured a hand. Except he also had been working in a trench about the same time and fallen and injured the same hand about the same time. The stories morphed into one another.

What was consistent was his reports of pain and his ability to get prescriptions written for opioids. Percocet. Oxycontin. Fentanyl.

And dental problems. In the course of the Worker's Compensation case we found 2 dentists also prescribed opioids.

Despite these and other problems with the Worker's Compensation case, Gerald had a good Social Security case. 30 plus years of heavy physical work had taken its toll. He was restricted to work far below his

usual exertional level.

Worker's Comp was another matter because of the aforementioned problems. We agreed to resolve his case by way of redemption, however. The hearing was set for January 30, 2018. He would have to be in Detroit for the hearing. I got a phone call from a daughter on the 29th. Gerald had been found dead in a friend's place the day before. Best guess was an opioid overdose.

2 days before his settlement hearing. Presumably he was celebrating.

It was a few months before we got the death certificate, after the autopsy. Cause of death was cocaine, fentanyl and heroin. He was celebrating.

It's a common scenario. We see it in teens. They start off sneaking opioids from their grandparent's medicine cabinets. Then, when they can't find pills they look to the street. And some of the street drugs are cut w/ fentanyl so who knows which is the chicken and which is the egg?

It's a national crisis. The drug manufacturers, in search of greater profits, sold physicians on these deadly, addictive pain killers as a safe treatment for chronic pain. Opioids had been used to treat pain post-surgery for short period. And they were used to treat the pain of terminal cancer patients. But this was a game changer.

Data from the Centers for Disease Control and Prevention show that since 2000 deaths from opioids have nearly quadrupled. But for patients 55 and older

the increase is 17-fold. It is estimated there are 95 overdose deaths a day in the U.S.

According to a survey by the National Poll on Healthy Aging, sponsored by AARP and the University of Michigan, only 43% of seniors prescribed opioids were told of the dangers of overdosing by their doctors and only 37% were told what to do with unused pills.

Medicare is footing the bill for many of these scripts. According to the Office of the Inspector General 1 in 3 Medicare Part D beneficiaries received at least one opioid script in 2016. And roughly 70,000 received what the OIG calls "extreme amounts".

Of course, Medicare fraud plays a role as well. Rouge doctors write scripts for Medicare recipients who then sell the pills on the street.

Opioids are stolen from hospitals, pharmacies and clinics leading to occasional shortages for those who have legitimate need for opioids, such as cancer and burn victims. Doctors wind up rationing the meds for the patients with the greatest need.

A couple of years ago a package arrived at my office with my address as the return address. It could not be delivered, as addressed, to someone in Minnesota. It contained 30 pills of what proved to be oxycodone.

This is a public health crisis of the first order and one that will be difficult to resolve without a concerted effort by all the stake holders.



## **AVERAGE WAIT TIME FOR HEARINGS ON THE RISE**

For the fiscal year ending October 1, 2019 the average wait time for a hearing is up from the 16-18 month average in recent years. The average wait times for the OHOs covering southern Michigan were as follows.

Detroit 16 months, Grand Rapids 20 months, Lansing 19 months, Livonia 18 months, Mt. Pleasant 21 months, Oak Park 18 months, Toledo 18 months.

## **CONGRESS CONSIDERS PROPOSAL REGARDING YEARS WITH NO COLA**

As stated elsewhere in this issue of SS&Y, the Cost of Living Allowance (COLA) for Social Security recipients is 2.8% for 2019. But in some years the formula used to determine the COLA dictates no increase in the amount received.

Now the U.S. House of Representatives will consider a bill sponsored by Sheila Jackson Lee, (D-TX-18) to provide a cash payment of \$250 to each recipient in years where there is no COLA.

## **CONGRESS CONSIDERS SEVERAL CHANGES THAT WOULD AFFECT SOCIAL SECURITY**

A bill entitled the Social Security 2100 Act, is being considered by Congress. Among other things, this bill would mandate use of the Consumer Price Index for the Elderly (CPI-E), as opposed to the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), to calculate COLA.

It is felt taking into account expenses incurred by the elderly, rather than those employed, more fairly assesses the increase in burden. It is estimated that in most years this would mean an average increase in COLA by 0.2%.

## **NEW COMMISSIONER OF SSA ON THE WAY?**

The Social Security Administration has been without a permanent Commissioner since Carolyn Colvin resigned on 1-20-

17. Nancy Berryhill served as Acting Commissioner until she resigned 3-7-18. President Trump appointed Andrew Saul as Commissioner and David Black as Deputy Commissioner in April, subject to approval by the Senate.

Perhaps because they were distracted by other issues like mid-term elections, budget considerations and border security, the Senate has not placed the nominations for approval by the whole Senate, despite favorable committee recommendations in November.

Ironically, the term Mr. Saul was nominated to fill ended on 1-19-19 however, it is expected he will be confirmed for a full 6 year term.

## **SOCIAL SECURITY COLA UP 2.8% FOR 2019**

The nearly 70 million recipients of Social Security retirement, disability or SSI benefits are seeing a bit more money in their bank accounts as of the new year. The average Title II disability benefits recipient will see an increase of \$34 per month from \$1,200 to \$1,234.

SSI benefits for an individual are up to \$771 per month. A couple both on SSI will receive \$1,157 per month.

## **SSA PROPOSES RULE CHANGE REGARDING INABILITY TO COMMUNICATE IN ENGLISH**

One of the considerations in disability evaluations under current Social Security regulations is whether or not the Claimant can communicate in English. This, in addition to education, age and work experience, factors into the Medical-Vocational Guidelines, usually referred to as the "grids".

This makes sense as many of the lower exertional level jobs Social Security says Claimants with physical limitations can perform require communication in English.

Now SSA is proposing the elimination of the category regarding the inability to communicate in English. While many may assume this would have little effect on the decision process, this is not the case. For

example, many of Attorney Crawford's clients from Macomb County are refugees from the war in Bosnia in the late 1990's. Many of the men, especially, have worked in factories where supervisors are also Bosnian, so they are able to communicate. Once impaired, however, these workers are at a distinct disadvantage in seeking lower exertional level employment.

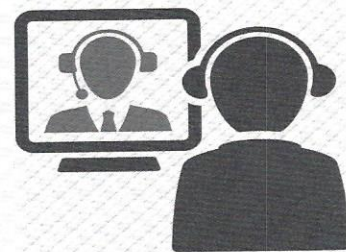
## **VIDEO HEARINGS MAY BE REQUIRED**

Attorney Crawford's clients, and those of most representatives, I expect, are advised to send the form received shortly after a Social Security case is received at the OHO to return the form objecting to having a video hearing. At a video hearing the judge is in one location, generally an OHO, and the Claimant and representative are in another OHO.

There are also hearings at SS Field Office sites with judge at the OHO.

While there are a number of reasons for declining a video hearing, the most important one is the familiarity of the representative with the local judges and vice versa. Each judge has his or her way of doing things and preparing the case to present it in the way the judge wants it presented can be the difference between a favorable or an unfavorable decision.

Now the Social Security Administration is proposing to take away the Claimant's right to an in person hearing and require them to have a video hearing regardless of the reason the Claimant wants an in person hearing.



## **STUDIES, STUDIES, STUDIES**

Its been over a year since the last issue of SS&Y. In the interim there have been an abundance of studies released. Some interesting, some with predictable results & some just puzzling.



Data from the Centers for Disease control for the flu season of 2016 showed that while the vaccine performed well for persons ages 50-64, it didn't do as well for those over 65. A study performed at the University of Nottingham in the United Kingdom may offer a way to up the odds. Researchers found that getting vaccinated while in a positive mood, having a healthy diet, exercising regularly and lower stress lead to an improved response.

According to a study done by Wakefield Research 25% of Americans over the age of 60 did not get a flu shot this year. 43% believe the shot may make them sick. 35% believe it is not effective. 35% don't expect to get the flu. 22% just don't like shots.

A report in the JAMA Neurology found a link between birthplace and the onset of dementia. Researchers at Kaiser Permanente Northern California that-adjusted for age, sex and race- the risk for dementia was 28 percent higher in nine states. The same states have higher rates of stroke deaths. The states are Alaska, Alabama, Louisiana, Mississippi, Oklahoma, Tennessee, South Carolina & West Virginia. Its tempting to say that those born in south have a higher risk but North Carolina, Kentucky & Virginia are nowhere to be found.

Another study performed by researchers at Kaiser Permanente may shed some light on why women get Alzheimer's Disease at a higher rate than men. Nearly 2/3 of the 5.5 million Americans with Alzheimer's disease are women. The results of the study point to reproductive health issues. Each miscarriage increased the risk by 9%. Entering menopause at age 45 or younger increased the risk by 28%. Women with 3 or more children had a 12% decreased risk over women with only 1 child. Of course, part of the increased risk is because women generally live longer than men and, therefore, have an increased opportunity for Alzheimer's Disease.

A poll conducted by the National Poll on Healthy Aging showed that whether or not patients would consider using medical marijuana was dependent on a variety of factors. Those included whether or not their doctor had recommended it, whether they knew someone who used it, the effectiveness (or lack thereof) of traditional pain medications. A growing wariness of opioids may also be a factor. A vast majority of seniors supported more

research on medical marijuana.

However, a University of Michigan/AARP study of Americans ages 50-80 revealed 80% favored use of medical marijuana with a doctor's recommendation. 69% thought medical pot "definitely or probably" helps with pain. 56% thought it definitely or probably helps with appetite. Older Americans also thought marijuana is less likely to cause cancer than tobacco and is less addictive than prescription pain medication.

A University of Michigan study reported in the JAMA found that "negative wealth shocks", defined as a loss of 75% of their wealth over a two-year period, lead to a 50% higher risk of dying in older persons over twenty years. Defined as age 50 or older, the amount of wealth loss had little to do with the risk. It was the percentage of wealth loss that made a difference.

Stock market worries can affect your health, according to a study published in the American Economic Journal. Retirees losing 10% of their remaining wealth will have increased health problems and a higher risk of dying than those who did not have financial setbacks.

While bankruptcy filings for Americans under the age of 55 decreased between 1991 and 2016, filings for those 55 and older are up and rates for those over 65 are way up, according to data analyzed by the Consumer Bankruptcy Project. A report by the Social Science Research Network says there are several factors leading to the shrinking safety net for older Americans. Reduced income, increased health care costs, vanishing pensions and higher eligibility ages for full Social Security retirement benefits are cited as causes.

University of Pennsylvania researchers have released a study of melanoma patients concluding that married patients are more likely to get an early diagnosis which leads to earlier treatment, better outcomes from treatment and less metastasis to other organs. Not surprisingly, spouses may notice suspicious moles that could signal melanoma. Spouses may be more likely to "encourage" their spouses to have suspicious moles checked out.

The back and forth on the potential benefits and risks associated with caffeine have been debated for years. A new study issued by the comes down on the plus side. Taking other co-morbidities into account,

such as alcohol, a study of nearly a half million British adults showed a slightly lower risk of death over 10 years for coffee drinkers versus abstainers.

We've known for years that hypertension (blood pressure readings above 130/80) is linked to a variety of health concerns, such as heart disease or stroke. Now comes a study released by the American Heart Association, last fall, tying hypertension to an increased risk of brain lesions. For example, persons with systolic readings of 147 had a 46% increase in the likelihood of brain lesions. Brain lesions are associated with Alzheimer's Disease.



A study conducted by the University of Michigan and cosponsored by AARP found that 65% of Americans aged 65-80 years of age were interested in sex but 60% said they were not sexually active. 72% were either married or in a romantic relationship. So, 25% or so have an unfulfilled desire for sex. Those reporting good or excellent health were more sexually active.

Staying with one doctor may help you live longer, according to English researchers. While not identifying how long continuous care with the same physician would most benefit a patient, the result of the study indicated that those who switched doctors frequently had a mortality rate twice those who stayed with the same doctor for an extended period of time.

Life expectancy for Americans is lagging behind Europeans and Japanese according to 2 studies published in BMJ, a medical journal. Based on data through 2015, The U.S. is the only nation among 18 developed nations with a life expectancy lower than 80. A rise in deaths due to drugs, alcoholism & suicide pushed the U.S. life expectancy down to 78.9 years. Japan ranked first with a life expectancy of 84 years.

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## **WIN ATTORNEY CRAWFORTH'S TIGER TICKETS**

2019 isn't likely to be any better than 2018 for the Detroit Tigers, who are trying to rebuild their franchise from the ground up. But it's still baseball and on a warm summer evening Attorney Crawford likes nothing better than sitting in his upper deck box seat behind home plate and watching a game.

But his busy schedule and other obligations means he can't attend every game. If you'd like a chance at winning some of his unused tickets, simply complete the enclosed entry blank and return it to Attorney Crawford's office.

By completing and returning the enclosed entry blank you can enter to win tickets during the 2019 season.

***Yes, I would like to enter to win  
Tiger Tickets***

Name \_\_\_\_\_

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