

SOCIAL SECURITY & YOU

FROM THE OFFICE OF ATTORNEY WILLIAM CRAWFORTH

WINTER 2018

Message From Attorney Crawford

CONGRESS, ONCE AGAIN, SETS ITS SIGHTS ON SSA

Periodically, Congress will decide to “streamline” or “reform” Social Security, especially disability, in order to “ensure the future of the benefits”. In September that came around again. Hearings were held on September 6, 2017 before the House Ways & Means Committee regarding how eligibility for disability benefits is determined.

There has always been the belief in Washington that, although Social Security retirement benefits are the 3rd rail of American politics, citizens (voters) weren't as much enthused about those “disability bums”.

In his opening remarks, Social Security Subcommittee Chairman, Sam Johnson (R-TX) noted that over 1 million people were awaiting a hearing regarding their eligibility for disability benefits and that the average wait for a hearing, nationwide, is about 600 days.

Chairman Johnson accurately noted that the Compassionate Allowances program has helped some (see article elsewhere in this issue of *SS&Y*) but still isn't working as intended. He also opined that more money was not the answer as SSA received \$90 million this year in dedicated funding to address the disability backlog and yet it continued to grow. Much of those funds were earmarked for technological upgrades that should pay dividends in coming years.

Chairman Johnson also noted that the

SSA lacks real leadership, pointing out that SSA has had an Acting Commissioner since 2013 and urged President Trump to nominate a Commissioner to lead the agency without delay.

Ranking Democratic member, John Larson, (D-CT) agreed and noted that while the technological improvements were important, investment in staffing is important as well.

It bears noting that only 30 new Administrative Law Judges were hired in fiscal 2017.

Testifying at the hearing were Lisa Ekman, the Director of Government Affairs of the National Organization of Social Security Claimant's Representatives (NOSSCR). (I have been a member of NOSSCR for 25 years.) Others testifying were Bea Disman, SSA's Acting Chief of Staff, Kathryn Larin, Director of Education, Workforce and Income Security Issues for the Government Accountability Office (GAO), Elizabeth McLaren, Bureau Chief of Iowa Disability Determination Services, and Marilyn Zahm, President of the Association of Administrative Law Judges.

Ms. Ekman made recommendations regarding the level of resources needed to administer the agency's programs, proposals to reduce wait times and ways for the various state DDS offices to develop cases more quickly & accurately and develop expedited screening tools. She also recommended that the agency resume issuing On-The-Record decisions in clear cases. In the past Senior Attorney

Advisors were allowed to issue decisions in such cases. Ms. Ekman also testified regarding the human toll the lengthy delays had on potential recipients.

Chairman Johnson was interested in why SSA's backlog reduction program would take until fiscal year 2022 to achieve its goals. Judge Zahm testified that if each ALJ received the union's recommended level of support staff she believed the ALJs could issue up to 200,000 more decisions each year.

In the wake of the September 6th hearings Senator Tom Cotton (R-AR) & Congressman French Hill (R-AR) took aim at the disability insurance program. In a statement released September 15, 2017, the Arkansas duo asserted that changes made in 1984 to the Social Security Disability Insurance program have made it easier to qualify for the program and more susceptible to fraud by placing more “credence” on Claimant's reported pain, relaxed screening of mental illness and placing the burden of proof on the SSA to refute the allegations of disability.

My practice has focused on Social Security disability & SSI since 1980. The comments made by Senator Cotton & Congressman Hill are without basis, in my opinion.

Certainly, the amount of money paid to recipients has risen over time. The increase in the amount of benefits and the demographic changes inherent in the aging population have assured this.

The solution proposed by Senator Cotton & Representative Hill is to introduce

the Social Security Disability Insurance Return to Work Act. Utilization of Continuing Disability Reviews (CDR) is the mainstay of the proposal. Those practicing as long as I have remember the hundreds of thousands cut off benefits during a similar purge in the Reagan years. That vast majority had their benefits reinstated at a cost of hundreds of millions of dollars.

We should not go down that road again.

CLAIMANTS CAN NOW FILE FOR SSI ON LINE

It has always been frustrating for dual Claimants for both SSD & SSI benefits if they wanted to file on-line. SSI benefits applications were only taken in person presumably because of the resource & income requirements.

The theory was "why take all of the medical information if the Claimant doesn't qualify because of resources or income". Well, the thinking has changed.

SSI Claimants can now file on line as well.

COMPASSIONATE ALLOWANCE LIST CONTINUES TO GROW

The Compassionate Allowance Program provides for the expedited award of benefits for certain conditions; often ones resulting in death or paralysis, such as atrophic lateral sclerosis (ALS or Lou Gehrig's disease) and certain cancers. 3 more conditions have recently been added bringing the total to 228.

The new conditions are childhood ataxia with central nervous system hypomyelination, congenital myotonic dystrophy and Kleefstra syndrome.

NEW PROGRAM CHANGES HOW PART-TIME WORK AFFECTS BENEFITS

As outlined elsewhere in this issue of SS&Y, Congress is pressuring the Social Security Administration to provide work incentives to get recipients off disability. Toward this end the Promoting Opportunity Demonstration (POD) is beginning in November 2017 and will continue until June 2021.

Currently, if recipients of SSD benefits earn above a threshold amount in any month (\$1,080 for 2018) they lose their benefits for that month.

Under POD earnings above a threshold amount will reduce the SSD amount by \$1 for every \$2 earned. This is similar to the way SSI is affected by earnings.

Beneficiaries in Alabama, Connecticut, Vermont & certain counties in California, Maryland, Michigan Nebraska and Texas will be invited to participate in this voluntary program.

ODAR DISSOLVED AS OF OCTOBER 1, 2017

Long-time practitioners & older recipients of Social Security Disability & SSI benefits will remember the Office of Disability Adjudication & Review (ODAR) once was named the Office of Hearings & Appeals (OHA). The Social Security Administration is shuffling the deck again which will lead, no doubt, to a handful of new acronyms.

Acting Commissioner, Nancy Berryhill, announced on August 8, 2017 the ODAR will be split in 2. The new components are the Office of Hearing Operations (OHO) & the Office of Appellate Operations (OAO). And the OAO will be moved to a new component; the Office of Analytics, Review & Oversight (OARO).

And to make things even more confusing, 5 other offices within the SSA will be folded into the OARO. No need to confound you any further with those names.

Acting Commissioner Berryhill's announcement shed little light on the functions of new offices and was classic bureaucratic double talk.

PERCENTAGE OF SSDI CLAIMS FILED ON LINE CONTINUES TO RISE

Despite Attorney Cawforth's belief that it is easier and more efficient to visit a Social Security Field Office when filing or either SS disability or SSI benefits, the percentage of Claimants filing on line continues to grow, albeit more slowly.

In Fiscal Year 2017, through September

1, 52.97% of claims were filed on line. Compare this with electronic filing rates for prior years.

2012: 38.48%	2013: 45.64%
2014: 51.36%	2015: 51.60%
2016: 52.14%	

SOCIAL SECURITY COLA UP 2%

On October 15, 2017 the annual cost of living adjustment was announced. The COLA is tied to CPI-W, the Consumer Price Index, which is supposed to keep track of what it costs to live. For 2018 the change is an increase of 2%.

The average disability payment (DIB) rises to \$1,173 from \$1,197. SSI for an individual is up \$15 per month to \$750. A married couple receiving SSI will now receive \$1,125.

The figure for Substantial Gainful Activity (SGA), the threshold amount of income a person on Disability Insurance Benefits (DIB) must stay below, is up to \$1,180 from \$1,170.

The maximum full retirement benefit for 2018 will be \$2,788. The average full retirement benefit will be \$1,404, up from \$1,377

SS TRUST FUNDS SOLVENT UNTIL 2034

The 2017 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance (OASI) and Federal Disability Insurance (DI) Trust Funds informs that both are fully solvent until 2034. Full benefits can be paid until 2028, 5 years longer than in last year's report.

The solvency of the DI Trust Fund has reported lower than expected levels of expenditures. This is due, in part, to steadily declining disability applications since 2010. In addition, the number of disability recipients has been declining since 2013.

SSA REPORTS BACKLOG REDUCTION GOALS REMAIN UNMET

In the wake of the September 6, 2017 hearings described in *A Message From Attorney Cawforth*, the Social Security

Administration issued an updated status report on the backlog reduction goals already in place. The news was not good.

SSA had a goal of 1,128,576 dispositions in the preceding 18 months but only disposed of 1,003,191. The goal of having 1,088,982 cases pending at the end of June 2017 was missed as well. 1,068,226 cases were, in fact, still pending.

The average processing time goal was 563 days. The actual average wait time was 626 days. This, despite 105,000 fewer Requests for Hearing being filed than expected.

SSA blames the failure on a lack of support staff at the ODAR (now OHO), especially decision writers. As practitioners and clients know, it can easily take 60-90 days to receive a decision, after a hearing.

STUDIES, STUDIES, STUDIES

Once again, the readers of *SS&Y* can enjoy the results of recent medical studies that never fail to entertain.

A study released by the American Cancer Society notes women can reduce their risk of breast cancer by one-fifth by walking briskly as little as 11-21 minutes per day.

A study conducted by Harvard of men over 75 years of age found that colonoscopies for men that age or older have little or no effect on cancer risk.

A study published in the *Journal of the American Osteopathic Association (JAMA)* reports riding a roller coaster can help persons pass small kidney stones. Wonder if the amusement park admission is deductible as a medical expense?

Cranberry juice has been recommended for urinary tract infections for years. Now that wisdom is called into question by a study published in the *JAMA*. The study of elderly women found no difference in the frequency of UTI between those who took cranberry juice and those who took a placebo.

An analysis of studies regarding links between drinking sugary sodas & incidence of obesity & diabetes found that independently financed studies supported a link 97% of the time. Studies financed by the beverage industry did not find a link 100% of the time. Duh.

As many know, Attorney Crawforth's

father had Alzheimer's Disease. So any studies regarding this scourge are of interest to him. A study published in *The Journal of the American College of Nutrition* reported that the incidence of Alzheimer's in countries where red meat and other animal products were a smaller part of the diet had lower incidence of the disease than in nations where diets had higher incidence of those foods.

The benefits of resistance (weight) training for older persons have been known for years. Now a study published by Canadian McMaster University finds that more repetitions with lighter weights gives the same benefits as fewer reps with heavier weights.

Another study done at McMaster University Medical School concluded 10 minutes of intense cycling on a stationary bike 3 times per week boosted fitness significantly.

A study published in the *JAMA* found a drop in the incidence of dementia in persons 65 and older. In 2000 the incidence was 11.6% while in 2012 it was down to 8.8%. The decline is attributed to improved heart health and education. Nevertheless, as the Baby-Boomers age the incidence is expected to rise.

We've heard for years you're never too old to get a benefit from stopping smoking. More support for this proposition is given by a joint study commissioned by AARP (the American Association of Retired People) and the National Institute of Health. Persons were tracked from 2004-05 through 2011. 33% of those who continued to smoke died compared to 12% of those who never smoked. And among those who quit in their 60's 23% fewer died than those who continued to smoke.

Now here's a weird one. A study published in *Behavioral Sleep Medicine* found persons slept better if they wrote down how they were going to fix a problem as opposed to those who just wrote down the problem without noting a possible solution.

And another *JAMA* study found that middle age and older adults who practiced meditation slept as well as those who took sleeping pills.

A University of Pennsylvania study

suggested chronic sleep deprivation kills brain cells. The study found the cell loss similar to those seen in drug abusers. Older studies have linked sleep deprivation to heart disease, cancer, diabetes allergies and skin disorders.

Maybe there is something to social media. A Swedish study of more than 17,000 people found that those with the fewest social connections were at a 50% greater risk of dying of heart disease than those with more social connections.

A German study found that migraine headaches were reduced by 42% by taking magnesium oxide supplements.

A study published in *Diabetes Care* found that 3-5 minutes of physical activity for every 30 minutes of sedentary activity improves blood sugar control. This is in addition to recommended resistance exercise and aerobic exercise.

Here's good news for chocolate lovers. The benefits of dark chocolate have been known for years. According to a study published in the *British Journal of Nutrition*, 2 squares of 60% to 70% pure cocoa daily may help prevent diabetes.

Gentle yoga practice helps keep blood sugar levels steady warding off diabetes, according to a study published in the journal, *Diabetes Care*.

Generosity is good for your health, according to a University of British Columbia & Harvard Business School study. Per the research, donating money to a charity makes people feel happier, especially if the charity is one represented by a friend or neighbor.

Here's one that seems self-evident. According to a Dutch study people get happier a few days before a planned vacation.

WHAT IS YOUR FULL RETIREMENT AGE?

One sign of advancing age is concern regarding Social Security retirement benefits and the solvency of the trust fund. For people born between 1943 and 1954 full retirement age is 66. For persons born in 1955 full retirement age grows to 66 years and 2 months. It continues to increase gradually until reaching 67 years of age for those born in 1960 or later.

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WIN ATTORNEY CRAWFORTH'S TIGER TICKETS

The Detroit Tigers are officially in a rebuilding mode. The fire sale at the end of last year got rid of a lot of expensive veterans but reaped a bumper crop of prospects that will, hopefully, allow them to do what the Houston Astros did: go from worst to first in just a few years.

Attorney Crawforth will be watching from his upper deck box seat for many games next year. But if he can't make a game he will be sure to get his tickets to a lucky reader of SS&Y.

Just fill out the enclosed entry form and send it to his office and maybe you will be the lucky winner of Attorney Crawforth's tickets next season.

Here are some lucky winners from 2017.

Heidi from Ann Arbor
Sarah from Belleville
Darise from Sterling Hts.
Jon from Ann Arbor
Lisa from Romeo
Jeff from Highland

By completing and returning the enclosed entry blank you can enter to win tickets during the 2018 season.

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

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