



Social Security Advisory Board

Henry J. Aaron, Chair
Lanhee J. Chen
Bernadette Franks-Ongoy
Jagadeesh Gokhale
Kim Hildred
Barbara B. Kennelly

400 Virginia Avenue, SW
Suite 625
Washington, DC 20024
202-475-7700

Claire Green, Staff Director

Board Meeting Minutes January 23, 2017

Location: 400 Virginia Avenue SW, Suite 625
Washington, D.C. 20024

Time: 9:00 am – 3:45 pm

SSAB Members: Henry Aaron, Chair
Lanhee Chen
Bernadette Franks-Ongoy
Jagadeesh Gokhale
Kim Hildred
Barbara Kennelly

SSAB Staff: Claire Green, Staff Director
Anita Grant, Senior Advisor
Jenn Rigger, Senior Advisor
David Warner, Management Chief
Joel Feinleib, Staff Economist
Sterling Laudon, Policy Attorney
Matthew Comey, Policy Analyst
Sarah Weaver, Management Analyst
Caitlyn Tateishi, Management Analyst
Bethel Dejene, Management Analyst
Matthew Graves, Research Analyst
Fran Huber, Senior Policy Analyst, SSA Detailee
Joyce Nicholas, Senior Policy Analyst, SSA
Detailee

Presenters:

Organizational Representative Payee: Ed Doonan, Head of Government Affairs, Benefits
Management Corporation

Social Security Administration (SSA): Bonnie Kind, Social Security Administration (SSA)
Associate Commissioner for Budget Office of
Budget, Office of Budget, Finance, Quality and

Management (OBFQM)
Patrick Perzan, SSA Deputy Associate
Commissioner
OBFQM,

Terrie Gruber, SSA Deputy Commissioner, Office
of Disability Adjudication and Review (ODAR)
Social Security Administration (SSA)
Gerald Ray, SSA Administrative Appeals Judge,
Deputy Executive Director Office of Appellate
Operations, ODAR

Opening Statement About the Board

Eleven months of the year, , the Social Security Advisory Board (SSAB) holds a meeting with Social Security Administration (SSA) employees and leadership, as well as other stakeholders in SSA's programs. These meetings take place in the form of Board meetings at the SSAB office in Washington D.C., public forums, or visits to SSA headquarters in Woodlawn, MD, or to one of the ten SSA Regions to hear from field and hearing office employees. These meetings, trips, and forums are opportunities for Board Members to gain insight on policies and procedures germane to SSA executives and management as well as congressional staff, union officials, advocacy groups, and outside experts.

The January 23, 2017 Board meeting was held at the SSAB.

Representative Payees

For the last year and a half the board has been looking at the Representative Payee program, and for ways to improve the program especially as the agency faces dramatic increases in the need for representative payees as the population ages and a greater number of people require assistance managing their benefits.

In the morning session, the Board met with Ed Doonan, the head of the Government Affairs program for Benefits Management Corporation (BMC). BMC is one of the largest organizational representative payees in the country with approximately 4,200 clients. Most of BMC's clients are from a referral from the SSA others come from the state's adult protective services. Mr. Doonan stated that BMS is most effective as a representative payee when there is a referral from another agency, and the beneficiary understands the service that BMC is going to provide. For example, with Volunteers of America, the client already has a social worker, who has explained the role of BMC and assisted in developing a budget. BMC is then merely the administrator of the budget. If a client does not have a social worker and does not have an understanding of how BMC can help them, then BMC must take additional time to explain who they are and how they will assist the client. Besides his role at BMC, Mr. Doonan is also the Chair of the Board of Directors for the National Association of Organizational Representative Payees (NAORP).

Mr. Doonan stated that in his experience representative payees, overall, do attempt to give beneficiaries appropriate autonomy regarding their funds. The representative payee will consider the individual's situation and then construct a plan for how that individual should allocate spending money (often working with a social worker, if available). After creating a client budget, representative payees

typically give clients a debit card. Money is typically added to the debit card at the beginning of the month, but the card can also be customized for the client based on individual needs. Representative payees may place spending limits on cards, such as daily \$20 limits.

The Budget

Bonnie Kind, and her colleague, Patrick Perzan, presented an overview of SSA's recent administrative budget numbers and explained what may happen after the interim federal budget—the continuing resolution (CR)—expires on April 28, 2017. The Chair informed Ms. Kind that the board had met with Congressional Staff and he wanted to relay the message that SSA needed to be more forthright in providing documentation for its positions and in providing core data sets that could be analyzed independently to support its requests for additional funding. This was not a message directed at Ms. Kind, who the Board appreciates meeting with and who personally is responsive to requests for information. Ms. Kind requested additional and specific information so she could adequately respond. The Chair noted a meeting was being scheduled with Hill staff and additional information would be forthcoming.

Ms. Kind continued her presentation noting that SSA provides benefits to 68 million people each month through its old-age, survivors or disability insurance programs or the supplemental security income program and these benefits help 22 million people stay above the poverty threshold. Ms. Kind stated that SSA keeps its administrative expenses low in comparison to other federal agencies. During fiscal year (FY) 2016, SSA's benefit and administrative expenses totaled \$12.162 billion; 1.3% of total SSA outlays.

Ms. Kind stated that SSA is deeply concerned about the potential for greater budget cuts. Congress has increased funding for SSA program integrity work but has reduced the portion of SSA's budget dedicated to serving the public and investing in SSA's IT infrastructure. SSA made progress by reducing the average number of days for initial disability decisions from 114 days to 110 days; however, it now takes 545 days on average to process a disability hearing, up from 480 days in FY 2015. Additionally, average wait times on the 800 number have increased from 10 minutes to 13 minutes.

The Program Service Centers (PCS) which process all post-entitlement actions including overpayments, underpayments and Workers Compensation adjustments has 3.6 million actions currently pending, up from 1.5 million at the end of FY 2010, while the staffing levels have decreased. Ms. Kind also noted that as more of SSA's easier workloads have been automated, the remaining workloads at the PSCs are more complex and difficult to automate.

Ms. Kind said that the agency does not have the funds it needs to automate additional workloads. The \$300 million for investment in systems improvements which was included in the President's FY 2017 budget will not cover more than the necessary maintenance of current systems—there are no funds for development beginning next year.

Ms. Kind then discussed the data analytics center of excellence created by SSA in an effort to have a central data warehouse and improve management decisions. SSA is also engaged in continuous efforts to simplify agency policy and keep the medical listings up to date.

Ms. Kind indicated that lower funding levels could result in fewer SSI redeterminations and Continuing Disability Reviews (CDR) because SSA may be forced to implement employee furloughs. This would necessitate the closure of field offices to the public, besides the current noon closure of field offices on Wednesdays. Reductions would also apply to the Disability Determination Service's (DDS) funding—and it would be up to the DDSs to determine how to operate within lower funding levels. Ms. Kind's office estimates that each day field offices are closed due to nationwide furloughs, the following workloads would not be completed: approximately 225,000 American's face-to-face actions in the field offices and on SSA's 800 number telephone system; 22,000 retirement and survivors claims and 10,000 initial disability claims; 2,500 disability reconsiderations; 2,500 hearings; 3,400 CDRs and 11,000 SSI redeterminations; 11,000 overpayment collections; 40,000 representative payee appointments, 68,000 Social Security Number issuances; the posting of 1 million earnings items; 135 post-entitlement changes; plus other workloads for people not on SSA's beneficiary rolls.

Ms. Kind ended her presentation by stressing four takeaways. First, it is important that SSA receives funding to stabilize the tenuous state of service delivery. The level of service SSA can provide is directly related to agency funding. Second, SSA has done its best to do more with less, but its efforts are unsustainable if the agency continues to experience increased program growth along with budget and staff constraints. Third, SSA is on the brink of a service crisis because of a decade of inadequate funding. Fourth, SSA is deeply concerned about the potential for greater budget cuts that will set the agency back even further—and the public will suffer.

The Hearings Level

The Board met with Terri Gruber and Gerald Ray to discuss the backlog of cases awaiting an appeal of a disability determination decision. Ms. Gruber and Mr. Ray discussed the extent of the problem, but focused on solutions they were implementing to ease the backlog.

Description of Condition at Hearings Level

Current pending. Ms. Gruber said there were currently 1.14 million disability cases waiting for a decision at the hearings level. Pending cases have increased slightly since FY 2015, in which there were 1.06 million pending cases. The number of pending cases will only start to decline once dispositions outpace receipt of new cases. If SSA received the resources it expected from Congress, including funding for hiring new administrative law judges (ALJs), Gruber said, the number of pending cases would fall in the next month or two. The current average wait time for a final decision (at the hearings level) is 573 days—down slightly from 592 at the end of FY 2016, but up from 526 at the end of FY 2015.

Current processing time. Wait times are disproportionately distributed across regions of the county. The Office of Disability Adjudication and Review (ODAR) is focusing efforts on moving resources around to better align with need. The regional differences are due to a combination of variation in case receipt and variation in level of resources (mainly number of ALJs and decision writers). Many of the newly hired ALJs will be used to staff up the national hearing centers. By comparison, initial claims can take 90 to 120 days, and reconsiderations can take another 90 days. Mr. Ray added that for appeals to the Appeals Council, claimants typically waited an additional 350 days for a decision.

Current productivity. Ms. Gruber said there were five key elements to how ODAR would spend \$150 million allocated from Congress through anomaly funding, which was marked for the purpose of

reducing the hearing backlog. The plan elements include: (1) hiring more ALJs and support staff, (2) strengthening the remand process, (3) eliminating bottlenecks, (4) improving accountability, and (5) increasing IT investments.

Regarding recent ALJ hiring, Ms. Gruber noted improved relations between SSA and the Office of Personnel Management (OPM). She thanked the Board for helping to spur the relationship. SSA has pledged to continue biweekly calls with OPM indefinitely. In FY 2016, SSA hired 264 ALJs. SSA has a target of hiring 250 ALJs in FY 2017, but current funding would only allow them to hire 175. A new hiring freeze issued by President Trump may complicate this. Ms. Gruber also noted the importance of hiring support staff for ALJs. ODAR wants to hire between 900 and 1,000 new support staff. Until staff is hired, ODAR needs to find other ways to get decisions out, including redirecting Appeals Council resources. Future budgets would need to contain the same funding as the anomaly budget allocation. In general, Congress would need to appropriate funding to keep those positions filled.

Ms. Gruber said SSA was also looking to reform the remand process, Ms. Gruber said about 100 remands per month were being sent to the central office in Baltimore, which is a federal Disability Determination Service (DDS) similar to the state DDS. Ms. Gruber plans to expand that in February, hoping that up to 40,000 remands will be sent to this office this fiscal year. The reversal rate for remands is around 9%, which would amount to a significant number of people getting a decision who would otherwise be waiting.

Additionally, ODAR is now doing prehearing conferences with unrepresented claimants at 30 field offices. There are a significant number of hearing postponements because claimants often decide to get representation only after their initially scheduled hearing begins. Instead of requesting representation at hearing slots, claimants can now do this at prehearing conferences. According to the data Ms. Gruber provided, among those hearings where a conference was offered to claimants only 44% were postponed when claimants participated in the conference, compared to 72% postponed when the claimant did not participate in the conference. Prehearing conferences also provide the opportunity to better develop cases, as ALJs and staff can tell claimants how to improve their records before the trial happens. Ms. Gruber said 40 to 45 percent of postponed hearings were due to the claimant requesting representation.

Ms. Gruber mentioned that a recently passed executive order issued by President Trump froze all federal regulations. Because the effective date for the rule is in March, ODAR is waiting for clarification on how the freeze on regulations would affect the new regulations on the hearings process. The regulation provided 75 days' notice of a hearing, and submission of evidence 5-days before the hearing. Mr. Ray said a very similar regulation had already been in place in the Boston Region (1), and that SSA did not have many people coming forward to say the rule was unfair. He attributed this to the many exceptions built into the rule.

Mr. Ray said there was an assumption that ODAR should work on cases in the order of the date they come in, but this was neither necessary nor efficient. He argued instead for using queuing theory to prioritize work — something he has already implemented at the Appeals Council level. He used the analogy of an express lane at a grocery store. However, Mr. Ray also noted the importance of balancing efficiency with preventing older cases from languishing.

Mr. Ray stated that 700,000 disability applications are coming in every year, with an average onset age of 53 years. He said application numbers are sensitive to demographic shifts. ODAR is considering

every possible approach for reducing the backlog and meeting the new needs set by new applications. SmartMand, triaging, pre-hearing conferences, and additional training are all non-hiring methods being utilized. The ultimate goal is to be able schedule more hearings, and they cannot depend solely on hiring to fill the gap. ODAR is setting a 270-day average wait time as its goal. Mr. Ray stated that what he has been able to accomplish at the Appeals Council level was promising for what could be done at the hearings level. Ms. Gruber said one change that would probably help is for non-ALJs to be able to make decisions, but that this came with a due process concern. As a result, ODAR is not allowing this at the current time, and wants to focus efforts elsewhere before going back to that idea.

I certify that the minutes written for the
January 23, 2017 meeting of the Social
Security Advisory Board are correct.

A handwritten signature in cursive script that reads "Henry Aaron".

Henry J. Aaron