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Blog Entries from <http://socsecnews.blogspot.com>

June 1 – June 30, 2008

Jun 30, 2008

More On Social Security's Search For Updated Occupational Data

I had earlier posted about the Social Security Administration's effort to find a contractor to furnish updated occupational data, which sounds awfully boring, but which is vitally important in disability determination. Hundreds of thousands of claimants are being approved or denied disability benefits each year based upon terribly out of date occupational data.

The Social Security Administration has now posted some [answers to questions posed by entities considering Social Security's solicitation](#). Here is one important one (emphasis added):

Question 3.

Section 2.1 (A) (13) allows for "unlimited use" of the data. Again, it may be inferred that the data may only be used in the context of the evaluation, but we would appreciate clarification that SSA/IE's use is for evaluative purposes only.

The OIC shall permit SSA to test and validate the occupational information and periodic updates in all manners deemed necessary by SSA. SSA will not use the occupational information for claims adjudication or other business process purposes.

Can anyone help me understand what is going on here?

Jun 30, 2008

Employment Levels At Social Security

Below are the most recent [statistics](#) on the total number of employees at the Social Security Administration and some historical numbers for comparison:

- December 2007 61,822
- September 2007 62,407
- June 2007 62,530
- March 2007 61,867
- December 2006 63,410
- September 2006 63,647
- September 2005 66,147
- September 2004 65,258
- September 2003 64,903
- September 2002 64,648
- September 2001 65,377
- September 2000 64,521
- September 1999 63,957
- September 1998 65,629

Note the 2.5% decline in the number of employees between the end of 2006 and the end of 2007, despite Democrats becoming the majority party in Congress and despite the fact that the number of Social Security claims filed increased rapidly

Jun 29, 2008

And I Thought They Were Done

The Department of the Treasury soldiers on in the battle to privatize Social Security. I thought they were done, but they have now released [Issue Brief No. 5 Social Security Reform: Strategies for Progressive Benefit Adjustments](#).

The essential assumption of these "Issue Briefs" is that there is it is already abundantly clear to all that Social Security must be, at least, partially privatized. The only issue left is exactly how we go about doing this. This "Issue Brief" deals with the ticklish subject of how do we cut benefits. Even though it would not be nearly enough to eliminate Social Security's long term financing problems even under current law, the "Issue Brief" advocates adjustments in inflation indexing to reduce benefits payments in future years. However, even this painful adjustment would be nowhere near enough money to finance even the most modest effort to divert Social Security taxes into private accounts.

Jun 28, 2008

Waiting In Asheville

From the Asheville, NC [Citizen-Times](#):

The horror stories roll off their tongues like a litany: claimants who die while they wait, families falling apart, bankruptcies, homelessness, even suicides.

Disability attorneys and advocates say these are the fates of an increasing number of people who become ill or injured and apply for federal Social Security Disability benefits.

From first application, people who cannot work because of illness or disability wait an average of three years for benefits. Many wait longer, and a large percentage of people simply give up. ...

A few cases are approved quickly - when people are elderly or clearly dying, said Cynthia Strom, a disability attorney in east Asheville.

"But for most people, it's a waiting game," she said. "I've had clients commit suicide while they wait because they just can't do it anymore." ...

Curtis Venable, an attorney with Pisgah Legal Services, said he has clients who have waited more than four years for approval. Getting approval in less than 2 years is rare.

"I'll bet one-third of the people living in homeless shelters are people waiting for disability," he said.

Bruce Peterson, district director for U.S. Rep. Heath Shuler, said the office gets hundreds of calls a month asking for help with disability.

I Wonder How Long It Took Them To Notice There Were More Than 1,000 Bats In The Ceiling

From [First Coast News](#):

A bat invasion has closed the only Social Security office in our nation's oldest city [St. Augustine, FL].

The office, located off U.S. 1 South, has been closed for the past two weeks. A spokesperson says the plan right now is to set up temporary offices. ...

Tom Moore with Rascal Rangers, the company hired to remove the bats, estimates that there were more than 1,000 brown bats in the ceiling area.

Moore says the biggest health concern with bats is the excrement they leave behind.

Jun 27, 2008

Meeting About Buffalo Backlogs

I keep posting about this, because the papers in the Buffalo area keep running articles. If every Congressman put this kind of pressure on Social Security, things would change. From the [Amherst, NY Times](#):

Congressman Brian Higgins (NY-27) today met with senior Social Security Administration officials with direct oversight over Social Security hearing office operations to discuss the SSA's plans to address the egregious backlog of Social Security cases in the Buffalo Hearing Office region. ...

"The Social Security Administration has taken the first step, but has only scratched the surface of the egregious backlog problem in Western New York," Said Higgins. "It is crucial that we now continue to build on this start and in order to eliminate the backlogs that exist now and ensure that Western New Yorkers never have to deal with backlogs like this in the future," Higgins said. ...

"The SSA knows that it can and must do better for Western New Yorkers whose lives have been put on hold while they await a decision on their Social Security cases," Higgins said. "This is not a matter we will let go unchecked simply because the SSA has made a step towards solving the problem."

Appropriations Bill Clears Senate Committee

The Labor-HHS Appropriations bill for Fiscal Year (FY) 2009, which begins October 1, 2008, a bill which includes funding for Social Security's administrative budget, has been reported out of the Senate Appropriations Committee. The Senate Appropriations Committee has sent out a press release, but it is not yet showing up on the Committee website. The Senate bill would give the Social Security Administration \$50 million more than the President's request for the agency. That is the same as what was reported out of the Labor-HHS Subcommittee but it is well below what was sought by those advocating for the agency. Unfortunately, the Commissioner of Social Security was not among those advocating for a bigger budget for his agency. Commissioner Astrue has been trying to downplay his agency's need for additional funding.

The fate of Social Security's FY 2009 appropriation is very much up in the air. The appropriations process has stalled in the House of Representatives. The President would surely veto anything that the Democratic controlled Congress would pass. With a new President coming next January, the Democrats in Congress have little incentive to negotiate with President Bush over the FY 2009 appropriations. It has generally been assumed that the appropriations process going on now was mostly to determine the bill that would be presented by the new Congress to the new President come next year, but there would be new actors on the stage then and there may be significant changes from what is being voted out of Committee now.

Beginning October 1, 2008 Social Security will be operating under a continuing funding resolution which will be problematic for the agency, since it will probably only allow spending at the FY 2008 level. This problem is likely to continue until at least next February and probably next March.

SSI Monthly Stats

Social Security's Office of Policy has released its [monthly statistical package](#) for the Supplemental Security Income (SSI) program.

Jun 26, 2008

Appropriations Process Stalls In House Of Representatives -- No Patience For BS

From [The Hill](#):

The House Appropriations Committee on Thursday abruptly adjourned a markup of the Labor/HHS spending bill [which includes Social Security's administrative budget] after Republicans attempted to force votes on energy-related issues.

Following opening remarks by Chairman David Obey (D-Wis.), ranking Republican Rep. Jerry Lewis (Calif.) requested that Obey guarantee that the Interior appropriations bill would be scheduled for a markup on July 9. It had already been tentatively scheduled for that date, but Republicans said they had reason to believe it would be postponed.

At that point, according to Rep. John Peterson (R-Pa.), Obey replied, "If you want to run this place, get 30 more members."

Lewis then attempted to force a vote by introducing an amendment that would have stricken the language from the Labor/HHS appropriations bill and replaced it with that of the measure funding the Interior Department.

When Peterson introduced an amendment regarding offshore drilling, instead of allowing him to present the contents, Rep. Norm Dicks (D-Wash.) called for a motion to adjourn, which passed on party lines. ...

Obey spokeswoman Kirstin Brost indicated the Wisconsin Democrat was not amused with the stunt, saying that the Interior bill was already scheduled for July 9.

"It should come as no surprise to anybody that Dave Obey has no patience for BS," Brost said.

Why Do I Remain Afraid?

Section 6 of the [ADA Restoration Act](#) just passed in the House of Representatives contains the following language:

(e) Benefits Under State Worker's Compensation Laws- Nothing in this Act alters the standards for determining eligibility for benefits under State worker's compensation laws or under State and Federal disability benefit programs.

I hope that the ADA Restoration Act will not affect the validity of the Dan Skolar letter that remains the basis for Social Security's interpretation that the Americans with Disabilities Act does not affect disability determination under the Social Security Act. As specific as the language quoted above seems to be, I remain fearful. There are lots of well-meaning people out there who have an almost religious belief that **EVERY** disabled person can work and that full implementation of the Americans with Disabilities Act will allow **EVERY** disabled person (who is not just lazy) to return to work. If you think I am exaggerating about the disability advocates who believe the **EVERY** disabled person can work, try digging around in the [website](#) of the Ticket to Work and Work Incentives Advisory Panel.

If you are wondering how the ADA Restoration Act with such specific language could possibly affect disability determination at Social Security, remember that the Dictionary of Occupational Titles is kaput. Social Security has to replace it somehow. Whatever is done will fundamentally alter disability determination at Social Security. Social Security's leaders must make fundamental decisions about a future course of action and, no, I do not think that starting the process to contract with some entity to update the Dictionary of Occupational Titles commits Social Security to much of anything. That is merely a starting point, since I am pretty sure that any update to the DOT that is even halfway honest will show that unskilled sedentary jobs have almost disappeared from the economy and that there are far fewer unskilled light jobs than there used to be. It is what you do about that fact that is going to matter a whole lot. In making decisions about what to do about these changes in the economy, Social Security's leaders may be affected by the ADA Restoration Act without saying so or, indeed, without believing that they are affected. This is all very close to the bone.

Watch Out! Amendments To ADA Pass House

From [Dow Jones](#):

The U.S. House moved Wednesday to broaden the definition of a disability under federal laws, passing a bill that would effectively reverse recent Supreme Court decisions on the workplace rights of disabled employees.

The bill, which passed 402-17, would revise the term "disability" to encompass a broader range of physical and mental impairments. Disability rights advocates say 1999 and 2002 U.S. Supreme Court decisions have so curtailed the scope of disabilities protected under the Americans with Disabilities Act, or ADA, as to exclude conditions such as cancer and cerebral palsy.

The bill would state that a disability couldn't be determined by whether "mitigating measures," including medication, prosthetics and assistive technologies, are available. The bill excludes people whose condition is expected to last six months or less.

According to the House Education and Labor Committee, plaintiffs in 2004 lost 97% of ADA employment discrimination claims, "often due to the interpretation of definition of disability."

So why does this matter to those interested in the work of the Social Security Administration? The argument has been made in the past that the ADA dramatically opened the doors for the disabled to return to work and that, therefore, it should be made harder to get on Social Security disability benefits and, if one gets on them, to stay on them. This has not happened so far largely because the ADA has been made a dead letter by the Supreme Court. If the ADA gets some teeth, this argument is likely to come back.

The argument that the ADA should change everything about the Social Security disability programs looks absurd at ground level. By statute, employer attitudes are excluded as a factor in determining disability at Social Security. The vast majority of disability claimants suffer from conditions that could not possibly be accommodated by employers. But the idea that simply passing amendments to the ADA could take lots of people off disability benefits and put them into jobs has such a powerful appeal to the naive that this is likely to have some effect upon the Social Security disability programs.

The irony is that those who promote an idea which would cause dramatic damage to the disabled

population of this country are often those whom society thinks of as prototypically disabled, people in wheelchairs. Most people who are in wheelchairs do not suffer from progressive illness or severe pain or severe mental illness and have little sympathy for those who do. They believe that if they can conquer their disability that there is no reason why others cannot. If they could get over the depression that accompanied the own adjustment to wheelchair life, there is no reason why some person suffering from bipolar disorder or schizophrenia cannot get over their mental illness. My impression is that people in wheelchairs often dramatically overgeneralize from their own situations. Instead of helping others with disabilities, they are often the enemy of others who are disabled.

Jun 25, 2008

One Last Nomination

An [announcement from the White House](#):

The President intends to nominate Jason J. Fichtner, of Virginia, to be Deputy Commissioner of Social Security for the remainder of a six-year term expiring 01/19/13. Dr. Fichtner currently serves as Acting Deputy Commissioner of Social Security and as Associate Commissioner for Retirement Policy at the Social Security Administration. Prior to this, he served as Senior Economist on the Joint Economic Committee of the United States Congress. Earlier in his career, he served as Senior Consultant in the Office of Federal Tax Services of Arthur Andersen.

Dr. Fichtner received his bachelor's degree from the University of Michigan, his master's degree from Georgetown University, and his PhD from Virginia Polytechnic Institute and State University. Fichtner was only recently appointed as Acting Deputy Commissioner of Social Security. Here is some [biographical information](#) on him.

This late in President Bush's term there is essentially no chance of Fichtner being confirmed to a position whose term would run well beyond the end of the Bush Administration.

Funding Bill Progresses In Senate

Senator Tom Harkin has sent out a press release indicating that the Labor-HHS Subcommittee of the Senate Appropriations Committee (Harkin chairs the Subcommittee) has reported out an appropriations bill. This bill covers Social Security's administrative budget. Here is the relevant language from the [press release](#):

***Social Security Administration (SSA)** — \$10.4 billion is included for the administrative expenses of the SSA, \$50 million over the President's budget request and \$632 million more than FY 2008, to continue efforts to reduce the backlog of disability claims. SSA reviews current disability cases to ensure beneficiaries remain eligible for Social Security.*

This is not good news. The Chairman's mark in the House of Representatives was only \$100 million over the President's proposed budget. Advocates are pressing for \$11 billion, which would be \$650 million over the President's proposed budget but probably still not nearly enough to begin a speedy turnaround of the mess at Social Security. It is far from clear that the amount in either the House or Senate bill would be enough to prevent things from getting worse at Social Security. Certainly, neither bill would make things significantly better.

The longer that Social Security's hearing backlogs stay at its current level, the less likely it is that anything will ever be done to dramatically diminish them. If you have tolerated a situation for ten years, what is the rush about doing something about it?

More Press Attention In Buffalo

The Buffalo News is running another article on the Social Security disability program. This one is entitled "[After Long Ordeal, Mother Wins Aid For Son With Behavior Disorders.](#)" The article includes praise for Social Security Administrative Law Judge (ALJ) Maryellen Weinberg of Brooklyn.

Not For The Private Sector

From an [Op Ed piece by Dennis Laurion in the Duluth News Tribune](#):

Having always voted for Republicans — except Richard Nixon and George W. Bush — I now have three concerns that preclude my voting for Sen. John McCain: his continued support of the Iraq War, his support for privatizing Social Security and his desire to farm out work that should be done by government employees.

After military service I worked for the Social Security Administration. I processed disability claims and monitored continuing entitlement of disability beneficiaries. Everybody I worked with took seriously their role as steward of public money. They dug into people's allegations and made strong commitments to pay legitimate claims and deny unfounded

Under the Bush administration, my district office in Duluth went from three managers and 25 employees to three managers and 12 employees. At 25 employees, we could not keep up with the workload, no matter how hard we tried. I firmly believe that the Bush administration appointed foxes to take charge of the hen house and depleted Social Security Administration staff so it could promote the idea that the Social Security Administration can't do the work, and that the U.S. needs private accounts.

Jun 24, 2008

Press Report On Predatory Lending Hearing

NASDAQ (and no, I do not know why NASDAQ has a news subsidiary) has a [report](#) on today's House Social Security Subcommittee hearing on predatory lending and the payment of Social Security benefits.

Congressional Hearing On Predatory Lending Practices

The House Social Security Subcommittee is holding a hearing today on "Protecting Social Security Beneficiaries from Predatory Lending and Other Harmful Financial Institution Practices." The [written statements of the witnesses](#) are now available online. This [excerpt from the testimony of Margot Saunders of the National Consumer Law Center](#) may tell us what is in the works:

We understand that as the result of extensive discussions and negotiations between Treasury and the Social Security Administration, the other federal payment agencies, and the federal banking agencies, that a compromise regulation will be proposed in the near future. Our understanding of this compromise is that it will incorporate at least the following features:

Upon receiving an order to freeze a bank account pursuant to a garnishment or attachment, a bank will

–

- 1. Review the electronic deposits made into the account in the previous 30 to 45 days (called the "look-back period"), to determine whether any are accompanied with the electronic designation for federally exempt funds.*
- 2. If there are any exempt funds deposited into the account, then the total amount of exempt funds deposited within the look-back period will be multiplied by a factor (either 2 or 2.5, or some other number to be determined – this is called the "multiplier").*
- 3. The multiplied sum of exempt funds will be considered the protected amount – this amount of money will always be kept safe from freezing or attachment or garnishment, regardless of the flow of money into and out of the account.*
- 4. Funds in the account which are in excess of the multiplied sum will be frozen and held pursuant to state law for disposition.*
- 5. The recipient will be free to seek to protect all exempt funds over the protected amount using the standard state court procedure.*
- 6. No garnishment fees assessed by the bank can be taken from the protected amount.*

Wanta Snoop?

The [Asbury Park Press](#), of all places, has posted a database showing the salaries of almost all federal employee as of 2007.

I know that federal employees may not like this information being so freely available, but that is part of the deal when you go to work for the feds. If you do not like it, there are jobs in the private sector.

Jun 23, 2008

Allsup Video

Allsup, a non-attorney group that represents Social Security claimants has posted this promotional video.

<http://blip.tv/play/Ab64awA>

More Pressure In Buffalo

From the [Observer](#) in Dunkirk, NY:

With May 2008 statistics in, showing 723 new Social Security cases filed in the Buffalo-area office last month alone, the highest one month total this year, Congressman Brian Higgins (NY-27) is calling for swift action on the promised hiring of judges and staff at local Social Security Administration (SSA) offices. ...

“Local judges and Social Security staff are working hard, but until additional personnel are on the job they can’t put a dent in these numbers,” Congressman Higgins said. “We need immediate action to get the Western New York offices staffed at a level that provides local residents with the service they deserve from our government. Making people wait two years for an answer is unreasonable and unfair.”

Jun 22, 2008

Another Allsup Inspired Article On Backlogs

The Press Republican of Northeastern New York is running a [story on the backlogs at Social Security](#) that is obviously based upon a press release from [Allsup](#).

SSNs Off Medicare Cards?

From the [New York Times](#) news service, although curiously I cannot seem to find it in the New York Times website itself:

Social Security officials, concerned about the risk of identity theft, are calling for immediate action to remove Social Security numbers from the Medicare cards used by millions of Americans.

But Medicare officials have resisted the proposal, saying it would be costly and impractical.

In a new report, the inspector general of Social Security, Patrick P. O'Carroll Jr., says "immediate action is needed."

"Displaying such information on Medicare cards unnecessarily places millions of individuals at risk for identity theft," O'Carroll said. "We do not believe a federal agency should place more value on convenience than the security of its beneficiaries' personal information."

Jun 21, 2008

SSI Newsletter

The Disability Benefits Project of Massachusetts Legal Services has released its 31 page [SSI Coalition Newsletter for May-June 2008](#).

Jun 20, 2008

ALJ Loses Fight For Job

From the [Atlanta Journal-Constitution](#):

For three years, Kelly S. Jennings ruled on disability claims for the Social Security Administration while simultaneously serving as an active-duty lawyer for the Army.

This week, a ruling determined the Atlanta administrative law judge can be removed from his civilian job for double-dipping. Social Security has also filed papers to recover more than \$309,000 in back pay and interest from Jennings.

By dividing his time between jobs, Jennings could not give Social Security his full attention, which in turn contributed to the nation's mountainous backlog of disability claims, wrote William N. Cates, the administrative law judge who heard the case.

Jennings worked in Social Security's Atlanta North office, known as the agency's "backlog capital" of the country. With an average wait of 838 days, the office in May ranked as the slowest in the nation in resolving the appeals of people who say they are too sick or injured to work.

Jennings, who said he made more than \$300,000 a year working for both Social Security and the Army, acted "purely for personal gain," Cates wrote. "Judge Jennings' dual employment and the ramifications thereof warrant his removal." ...

"We are pleased by the decision," Social Security Commissioner Michael J. Astrue wrote in an e-mail. "The irresponsible conduct of this employee shouldn't tarnish the reputations of our ALJs, who have helped reduce the disability backlog by increasing their productivity by about 10 percent in the past year."

Employee Satisfaction At Social Security

From the [National Council Digest](#), put out by Council 220 of the American Federation of Government Employees (AFGE), which represents a good part of Social Security's workforce:

A poll recently conducted by Council 220 shows that nearly half of the respondents are either "dissatisfied" or "extremely dissatisfied" with their work experience at Social Security. An overwhelming number (79%) also believe that most employees share those same feelings. ...

When asked "do you feel that you have enough time to devote to a quality work product?" a staggering 82 per cent answered "no." ...

A large number (59%) believe quantity of work is considered more important than quality. ...

Big Fraud Investigation?

From [Dominican Today](#):

SANTO DOMINGO.- Three United States federal prosecutors, FBI agents and investigators from other agencies are in the country to probe the whereabouts of dozens of millions of dollars bilked from its Social Security System, allegedly laundered in the Dominican Republic.

Justice minister Radhamés Jiménez yesterday said there are leads in the case against those implicated, but refused give details ...

Jiménez said the U.S. investigators are working with local prosecutors on money laundering in the country, as part of the collaboration in important cases. "In fact, those prosecutors are behind an investigation of an embezzlement committed in the United States and it's assumed that fruit of that money, of that fiscal fraud against the United States, a large part of all that money was laundered in the Dominican Republic."

The official, who said there could be more information on the case "in a relatively short time," doesn't know how long they'll remain in the country. He stressed that there's no extradition request.

"There's information that isn't public knowledge," he said, but noted that neither politicians nor military have been implicated so far.

Many, Many Plaques

From [FedBizOpps.Gov](#):

The Social Security Administration (SSA) intends to negotiate a sole-source acquisition with Lamb Awards and Engraving, 129 E. Main St., Westminster, MD 21157 to provide 7,500 wood plaques constructed per attached specifications. The proposed contract action is for supplies for which the Government intends to solicit and negotiate with only one source under the authority of FAR 13.106-1(b)(1).

Fantasy Meets Reality

At the recent conference of the National Organization of Social Security Claimants Representatives Marianna LaCanfora, Social Security's Assistant Deputy Commissioner for the Office of Retirement and Disability Programs, spoke of a plan to introduce an automated system by which medical records are obtained automatically by Social Security before claims files ever reach Disability Determination agencies for adjudication. That was the fantasy she was talking about.

Meet the reality. Even in theory, this plan can only work if medical records are stored electronically. However, the [New York Times reports](#) on a New England Journal of Medicine study that shows that fewer than one in five doctors in this country has started using electronic records systems. Only 9% of doctors in small offices have such systems. Those who are experts in electronic records believe that smaller medical practices have little incentive to switch to electronic records and that government incentives will be required to make it happen. An upcoming experiment by Medicare will cost \$150 million just to convert 1,200 small practices! The cost of converting all medical practices in this country

would be astronomical.

Even if all medical practices in the country could be converted to electronic medical records, developing a fully interchangeable system such that medical records could be obtained with almost no effort would still be a long way off.

Please, no more moonbeams, Social Security. Let us talk about what can be done in the here and now about the current problems.

NPRM On Age

Relax. This is not a big deal. There was a very controversial proposal to change the age categories in the grid regulations, but this is not it.

The Social Security Administration has published in the Federal Register a [Notice of Proposed Rule-Making \(NPRM\)](#) to "to acknowledge that we make disability determinations for individuals over age 64 [since a prior statutory change is moving full retirement age up to 67]. These proposed changes are technical corrections that would help to explain how we currently determine disability for such individuals and would not have any substantive effect."

Jun 19, 2008

Chairman Obey Statement On Social Security Appropriation -- Moving Backwards

The Labor-HHS Subcommittee of the House Appropriations Committee held a markup session today on the Labor-HHS Appropriation bill. David Obey is the Chairman of the full House Appropriations Committee, as well as Chairman of the Labor-HHS Subcommittee. The Labor-HHS Appropriations bill includes the Social Security Administration's Limitation on Administrative Expenditures (LAE), which is basically the appropriation for the Social Security Administration's operating budget.

Traditionally, the Chairman of the Committee prepares a "Chairman's Mark", a proposed appropriations bill and the Committee or Subcommittee works off that, with members of the Subcommittee and later the full Committee offering amendments to the Chairman's Mark." Obey prepares the Chairman's Mark in consultation with Committee members, so the end result should be pretty close to the Chairman's Mark.

Here is an excerpt from [Obey's statement](#) before today's markup session:

"The bill [Chairman's Mark] also accelerates efforts at the Social Security Administration to ensure that seniors and the disabled receive the benefits to which they are entitled. It provides \$682 million over last year (\$100 million over the request) to help SSA reduce the backlog of disability hearings, improve claims processing times, and support field offices.

Let me make a few points. First, the [Budget Resolution](#), which is only binding upon the Appropriations Committees in aggregate, provided for \$240 million in extra financing for Social Security, so we are moving backwards. Second, I do not know what happened today in the Subcommittee markup, much less what will happen in the full Committee. Third, the Senate will have a say in the matter. The Senate may be more concerned about Social Security's operating budget than the House of Representatives. They were last year. Finally, it is clear that Congress and President Bush will not be agreeing upon appropriations bills. These will all be pending when the new President and Congress come to town next January. Still, the appropriations process going on now is important. This whole process cannot start from scratch in January. What is agreed to now is almost certain to be the starting point come next January and, given the urgency to get something passed, the end point is likely to be near the starting point.

Waiting In Michigan -- And Spreading A Misconception

WLNS in Lansing, MI is running a [story on the backlogs](#) in adjudicating Social Security disability claims. The story is misleading in a rather common way. Here is a quote:

"It was to the point where we had gone through all of my retirement and all of our life savings. We weren't going to be able to keep our house if something didn't happen relatively quickly."

Teresa [Brown, the claimant] finally decided to call Congressman Mike Rogers. She had her hearing two months later and finally got approved for disability.

Teresa Brown: "Relief, the end was finally here."

No, the call to the Congressman had nothing to do with the allowance. It was almost certainly coincidence. Now, thousands of people in the Lansing will believe that their Congressman has some special magic that will enable them to be approved quickly for Social Security disability benefits. Claimants may even avoid hiring an attorney who might actually be able to help them because of this misconception.

Testimony On Economic Stimulus

Linda McMahon, Social Security's Deputy Commissioner For Operations, [testified today before the Oversight and Social Security Subcommittees on the status of the economic stimulus payments.](#)

Supreme Court Decides Met Life Case

From the opinion in [Metropolitan Life Insurance v. Glenn](#), No. 06-923, issued today by the Supreme Court:

The Employee Retirement Income Security Act of 1974 (ERISA) permits a person denied benefits under an employee benefit plan to challenge that denial in federal court. 88 Stat. 829, as amended, 29 U. S. C. §1001 et seq.; see §1132(a)(1)(B). Often the entity that administers the plan, such as an employer or an insurance company, both determines whether an employee is eligible for benefits and pays benefits out of its own pocket. We here decide that this dual role creates a conflict of interest; that a reviewing court should consider that conflict as a factor in determining whether the plan administrator has abused its discretion in denying benefits; and that the significance of the factor will depend upon the circumstances of the particular case. See Firestone Tire & Rubber Co. v. Bruch, 489 U. S. 101, 115 (1989).

Coming To A Mall Near You

From the [Current Argus](#) of Carlsbad, NM:

Patrons of the Carlsbad Social Security Office can now "shop" while they wait. On June 9, the Social Security office opened the doors at its new location inside the Carlsbad Mall. The 2,000-square-foot space, which is next to Beall's department store, offers easier access and more privacy than the older office.

Rota And Tinian Get Visit



From the [Saipan Tribune](#):

A Social Security Administration representative will be on Rota and Tinian this week to accept Social Security number applications, reports of any change regarding eligibility, and answer questions regarding programs administered by Social Security.

On Wednesday, June 18, the representative will be on Rota at the Mayor's Office conference room from 10:30am to 4:30pm. On Thursday, June 19, the representative will be on Tinian at the Community and Cultural Affairs Office located at the Tinian Gymnasium.

Saipan, Rota and Tinian are all in the Northern Marianas, located in the Pacific. A [website](#) describes them as "a tropical paradise offering magnificent beaches, crystal clear blue waters, the lively bustle of night life, shopping, a wide range of ethnic food, and a multitude of outdoor activities."

Article On The Shaw Group

The Belleville News-Democrat of Southern Illinois is running an [interview with James Shaw of the Shaw Group](#), a provider of non-attorney representation to Social Security disability claimants. A small excerpt:

Q: Who does The Shaw Group represent today?

A: "We have clients in 5,000 different cities across the country, Canada, Puerto Rico, the Philippines, Germany and Sweden ... These are Americans who work inside and outside of the country who become disabled. We have done these claims for those living in all 50 states and abroad, and it just keeps getting bigger than I dreamed it ever would."

By the way, God help them with the representation of U.S. Social Security disability claimants who live overseas. I have done a little of that. If you think Social Security's domestic operations are in shambles, you ought to see what disability claimants who live overseas have to face! I have been involved with Social Security disability work for more than 30 years and I have never seen anything that comes close to the mess that Social Security has with disability claims that come in from outside U.S. borders.

Jun 18, 2008

An Issue Too Hot For Social Security's OGC To Touch -- SSA To Recognize Civil Unions To Limited Extent

The Social Security Administration (SSA) has recently been wondering "whether the Defense of Marriage Act ... would prevent the Commissioner of Social Security ... from providing the non-biological child of one member of a Vermont civil union with social security benefits on account of that individual's relationship with the child." Amazingly varied family relationship questions arise all the time at Social Security. Social Security's Office of General Counsel issues opinions on these questions several times a month. But, Social Security bounced this question to the Attorney General. I have never seen this before.

The [Attorney General's response](#):

We conclude that it would not [prevent the child from receiving the benefits. Although DOMA [Defense of Marriage Act] limits the definition of "marriage" and "spouse" for purposes of federal law, the Social Security Act does not condition eligibility for CIB [Child's Insurance Benefits] on the existence of a marriage or on the federal rights of a spouse in the circumstances of this case; rather, eligibility turns upon the State's recognition of a parent-child relationship, and specifically, the right to inherit as a child under state law. A child's inheritance rights under state law may be independent of the existence of a marriage or spousal relationship, and that is indeed the case in Vermont. Accordingly, we conclude that nothing in DOMA would prevent the non-biological child of a partner in a Vermont civil union from receiving CIB under the Social Security Act.

You wonder what Alberto Gonzales would have said.

Another Hidden Backlog

From a [recent report by Social Security's Inspector General](#):

Each year, a number of workers contact the IRS to dispute earnings reported under their Social Security number (SSN) and the associated taxes. If the IRS concurs with the worker, it sends a referral to SSA stating the reported wages do not belong to the worker. The IRS does not collect Federal income tax from the worker on the disputed earnings and notifies SSA to correct its Master Earnings File (MEF) record using information provided on the Form 9409 IRS/SSA Wage Worksheet (wage referral). Upon receiving the wage referral, SSA uses the Item Correction 2.8 (ICOR) process in the Earnings Modernization system to remove the disputed earnings from the worker's earnings record.

Our March 2003 report stated that, as of March 2002, the IRS had sent SSA approximately 12,000 disputed wage referrals for Tax Year (TY) 1999. We found that SSA had not processed these referrals to determine whether workers had overstated wages on the MEF. By not reviewing these IRS wage referrals, SSA was missing an opportunity to correct individual earnings records, prevent the misuse of SSNs, and reduce improper benefit payments.

Not every problem at Social Security is due to inadequate staffing. However, this appears to be a backlog that the agency has been aware of but has not had enough staff to correct. Hearing backlogs get

press attention, but the Social Security Administration has hidden backlogs like this all over the place. The effect of many of these backlogs is inaccurate payment of benefits. Some people are being paid too much and some people are being paid too little. Cumulatively, the inaccuracies may be over a billion dollars a year, but no one knows.

Changes At NCPSSM

From a [press release](#):

The [National Committee to Preserve Social Security and Medicare \(NCPSSM\)](#) President and CEO, Barbara B. Kennelly has announced the creation of a new non-profit foundation, The [National Committee to Preserve Social Security and Medicare Foundation](#). The National Committee Foundation is a 501c3 organization whose mission is to provide public education through sound policy analysis and media focused outreach on the future of the Social Security and Medicare programs. ...

"The NCPSSM Foundation will expand and enhance the successful advocacy work we've been doing for the past 25 years at the National Committee. The Foundation's unique goal is to restore balance to the so-called "entitlement" debate through sound policy analysis.Barbara B. Kennelly, President/CEO.

Former Congresswoman Kennelly also announced the appointment of Scott L. Frey to the Position of Executive Director of the National Committee Foundation. Mr. Frey has over 20 years of experience in health, aging, and retirement income policy and advocacy in Washington, both on Capitol Hill and in the non-profit sector.

Jun 17, 2008

Social Security Subcommittee Hearing

Yes, the [House Social Security Subcommittee is having a hearing](#). It is scheduled for June 24 at 10:00. The subject is the use of various subterfuges to avoid the anti-assignment provisions of the Social Security Act.

House Social Security Subcommittee Hearing Coming

From the [Payday Pundit blog](#):

The Payday Pundit has been informed the the House Subcommittee on Social Security may hold a hearing to investigate arrangements that permit benefit payments to be deposited into a third party's "master" account when the third party maintains separate "sub" accounts for individual beneficiaries.

...

Social Security Owes Claimants \$445 Million

From a [report](#) by Social Security's Inspector General:

[An] underpayment is any monthly benefit amount due an entitled beneficiary that has not been paid. ...

We found that SSA needed to improve its controls and procedures to ensure underpayments were appropriately paid on behalf of terminated beneficiaries. Based on a random sample of 300 underpayments, we determined that SSA needed to take corrective actions to (1) pay \$177,184 in underpayments payable to 180 eligible beneficiaries and individuals and (2) remove \$44,214 in erroneous underpayments from the MBR [Master Beneficiary Record] for 49 terminated beneficiaries. As a result, we estimate there are

\$358.7 million in underpayments payable to 391,844 eligible beneficiaries and individuals, and

\$86.7 million in erroneous underpayments on the MBR for 109,712 terminated beneficiaries

That is a lot of money! Lack of an adequate workforce could have something to do with this.

Jun 16, 2008

This Is What We Were Telling You

From a [report](#) by Social Security's Inspector General:

On October 29, 2007, SSA issued a notice of proposed rulemaking (NPRM) that stated "Our program experience has convinced us that the late submission of evidence to the [Administrative Law Judge] significantly impedes our ability to issue hearing decisions in a timely manner." To remedy this situation, the NPRM listed a number of potential changes to the appellate process, including (1) requiring at least 75 days' notice for hearings and (2) requiring the submission of evidence at least 5 days before the hearing to ensure the Administrative Law Judge has time to review the evidence. Subsequent to the NPRM, the Commissioner requested that the Office of the Inspector General evaluate and document the extent to which delays in the submission of evidence affects the timeliness of the hearing and appeal process.

RESULTS OF REVIEW

We determined that the Case Processing and Management System (CPMS) information being used by the Office of Disability Adjudication and Review (ODAR) to monitor the timeliness of medical evidence did not indicate the late submission of medical evidence before hearings was a significant issue at hearing offices. ODAR managers identified two points in the hearing process affected by the late submission of medical evidence by claimants and their representatives before the hearing: hearing postponements (where the hearing is scheduled for a later date) and post-hearing development (where evidence is reviewed after the hearing). When we reviewed these two points of the hearing process, we found that about 0.2 percent of hearings were postponed annually as a result of late medical evidence and about 1.8 percent of the workload currently in-process was significantly delayed after the hearing due to late medical evidence.

When we reviewed all medical evidence delays in the hearing process, in addition to claimant-related issues before the hearing, we found that as much as 7.2 percent of the workload currently in-process was significantly delayed because of late medical evidence. However, since the majority of these medical evidence issues occur before the claimant's hearing is scheduled, they are neither directly associated with the medical evidence problems noted in the October 2007 NPRM nor likely to be remedied by the hearing process changes proposed in the notice.

Tell Me More

Social Security recently issued a report entitled "[Plan to Eliminate the Hearing Backlog and Prevent Its Recurrence: Semiannual Report Fiscal Year 2008](#)", yet the 18 page document does not show the current state of the backlog or show any projection on when the backlog will be eliminated. You would expect this sort of data in a report with this title. The absence of this data seems remarkable.

The report does not show how many new Requests for Hearing that Social Security has received so far this fiscal year or how many dispositions of these Requests for Hearing that Social Security has made so

far in this fiscal year. All the report says is "In FY 08, ODAR has been challenged by new receipts for hearings that continue to rise above FY 07 levels and the loss of experienced Administrative Law Judges through attrition." That does not sound like things are going well, especially when you consider the elliptical nature of the report.

The report contains a chart showing the decline in the number of cases pending more than 900 days. This shows that Social Security is doing a less bad job in spreading the misery around, but that tells us nothing about the overall state of the misery.

I posted a report that I had received from inside Social Security that the backlog of people waiting for a hearing before a Social Security Administrative Law Judge (ALJ) was increasing at the rate of about 10,000 per month. That is a huge rate of increase. As I posted at the time, if this is true it would take an additional 200 or more ALJs just to keep the backlog from growing. Social Security is only planning to hire 175 more ALJs this year -- and the net increase in the number of ALJs will not be 175 because of the ordinary attrition of those who are already ALJs.

This week, the House Appropriations Subcommittee that covers the Social Security Administration will be [marking up Social Security's operating budget for Fiscal Year \(FY\) 2009](#), which begins on October 1, 2008. I think that Subcommittee ought to know the current state of the hearing backlogs and whether and at what rate that backlogs is expanding. The Subcommittee needs to know how many ALJs Social Security needs to stop the backlog from growing and to start reducing it and how much this will cost. This "Plan to Eliminate the Hearing Backlog ..." is just happy talk. Congress needs hard numbers.

Two Astrue Broadcast E-Mail Messages Today

From this morning:

A Message To All SSA And DDS Employees

Subject: New Homepage

Since my first day as Commissioner, I have said that the "public face" of our Internet site, our homepage, was good but could be even better. That is why over the past months, I have been working closely with the Office of Communications to develop a new version.

Today, I'm pleased to unveil the newly redesigned Social Security Online homepage. It's more welcoming and user-friendly. The new look of our homepage follows the standard for design principles in the industry by reducing clutter, improving navigation, making better use of graphics, reducing the need to scroll down and prioritizing items on the page.

During the design phase, I insisted we direct visitors' attention to the information and online services that can best reduce the number of unnecessary trips to a local Social Security office. As a result, links to Filing Online for Retirement Benefits, Applying for Disability Benefits and Requesting a Social Security Card are all located front and center on the new homepage. For the first time, people also can watch a brief video greeting on the site delivered by one of our agency employees, which will help many people, including those with certain visual disabilities.

While the look of our homepage has changed, the web addresses have not. Favorite sites that you and other frequent visitors have bookmarked will not change.

Please take a minute to get familiar with our new public face. See how easy it is to use at www.socialsecurity.gov.

If you have comments or suggestions, E-mail them to new.homepage@ssa.gov.

Stay tuned for more improvements to our website, including the addition of the new online Retirement Estimator, by the end of July.

*Michael J. Astrue
Commissioner*

And from this afternoon:

A Message To All SSA And DDS Employees

Subject: Midwest Flooding

While many of us watched the massive flooding in the Midwest on television, many of our colleagues have been living with it. Several offices, including Cedar Rapids, Iowa City, Burlington, Davenport and Des Moines, were affected in Iowa; others were threatened in Kansas.

Even though several SSA and DDS offices were in the path of destruction, all came out of it unscathed. Another high point—all of our employees are reportedly accounted for and safe. Personal damage is limited to water in some employees' basements.

Today's news out of Cedar Rapids is encouraging with the office reopened and the water rapidly receding. Our office is undamaged, but had to be closed last Friday, because routes to the office were closed, with the river cresting at 31 feet (flood stage is at 12 feet).

Meanwhile in Iowa City, the Iowa River has crested. At its highest point, the river reached within a block of the federal building where our office is located. On Friday, local employees rushed to handle Monday's and Tuesday's appointments in advance of the river's rise. Other Iowa offices are safe. Employees in the Iowa DDS evacuated last Tuesday, and computers were moved to keep them safe. The building was spared, and DDS employees are beginning to move back in today. We expect full operations by the end of the week.

In addition to the flooding in the Midwest, Manhattan, Kansas suffered a damaging tornado, which touched down less than two miles from our office. Our office and employees, however, came out of it safe and sound.

So, let's take a minute today to count our blessings and remember our co-workers who are dealing with so much disruption.

*Michael J. Astrue
Commissioner*

"Hidden Workloads"

From a [June 13, 2008 letter from the National Council of Social Security Management Associations \(NCSSMA\), an organization of Social Security management personnel, to Linda McMahon, Social Security's Deputy Commissioner for Operations](#) (emphasis added):

In the last two months, NCSSMA has asked our members their opinions twice on the state of operations in their offices. ...

A myriad of workloads that do not appear on any of our many lists and databases were reported as "hidden" workloads. [And NCSSMA gives a list of 46 such types of "hidden workloads", including] ...

4. Congressional inquiries ...

5. Death Reports received from funeral homes (721s)

6. Direct Deposit requests or changes received by fax or mail (1199s)

7. Email—reading and/or responding

8. Explanations for overpayments and notices ...

11. Fraud referrals ...

30. Rep. Payee misuse allegations ...

39. Training employees

40. Unanswered telephone calls

41. Voicemail messages ...

There are a number of workloads that are not being done timely and some are not being done at all. [And NCSSMA gives a list of 30 such types of workloads that are either not being done at all or not being done timely, including.] ...

8. Earnings corrections ...

15. Overpayments in the Field Offices and Program Service Centers including waivers and personal conferences ...

19. Representative payee accountings and exceptions ...

*Perhaps the greatest opportunity cost is the mounting cost from medical CDRs [Continuing Disability Reviews] and SSI redeterminations that have not been done in recent years. The deferral of this work has certainly been useful in responding to the short-term challenges that field offices are facing and perhaps to address workloads that would otherwise remain hidden. **The grim reality, however, is that the cost of delaying these workloads is one that still must be dealt with. ... These deferrals will ultimately produce a new volume of work that will need to be processed in addition to the mounting overpayments that will be a direct result of deferring this work ...***

The competing objectives of production and quality are a common and very real dilemma that FO/TSC [Field Office/Teleservice Center] managers face on a daily basis. ... As one manager stated, "However, we can only speculate how much and how often interviewers ignore information or shape it to fit within the responses available in the system. Workload shortcuts most common are ignoring more complicated or involved responses to questions that would require development. Who is to know if the applicant was vague in a response or wanted to check on an answer when the easiest thing for the CR to do is answer "no" and ignore any potential issue or delay claims processing waiting for evidence?" ...

Field managers spend much of their time answering the telephones that would otherwise continue ringing and working the reception area to keep waiting times down. We get monthly, weekly, and daily reports related to productivity; but rarely do we hear when our quality reviews are not getting done or our training schedule is inadequate. The agency priorities are clear to us. Quality is indeed a "hidden workload." Any change in that organizational culture must come from the top down, but it must be accompanied by a strong dose of reality and a clearer understanding of realistic expectations.

Costs Of E-Verify

From [Federal Computer Week](#):

The House has begun to debate the effectiveness of the Homeland Security Department's electronic employment eligibility verification system, E-Verify. Some lawmakers are considering making it mandatory for all employers while others are pushing for an alternate system ... A report from the Government Accountability Office released today estimates that a mandatory E-Verify program would cost about \$765 million from fiscal 2009 through 2012 to verify only new employees and \$838 million to verify new and existing employees in the same period. In addition, SSA has estimated that a mandatory program would cost \$281 million for fiscal 2009 to 2013 and require an additional 2,325 employees.

Results Of Last Week's Unscientific Poll

One person wondered why they saw an ad for one Presidential candidate when they registered their vote in this poll. The reason is that I am cheap. The online provider that I used for the polling services provides it either for free or for a charge. Since I am cheap, I use the free service. But we know there is no free lunch. The "price" of the free service is advertising. Usually, the ad has nothing to do with the poll and is mostly ignored. One of the presidential candidates happened to be advertising on this polling service at the time the questioner voted in the poll, which may have seemed a bit startling, but I had nothing to do with the placement of the ad. Interestingly, when I went to retrieve the poll results this morning, the ad that came up was for the other Presidential candidate!

If the election were held today, who would get your vote for President of the United States?



Total Votes: 138

Jun 15, 2008

I Wish There Were More Of These

From the [Texarkana Gazette](#):

The Social Security Administration will present a seminar on work and disability Thursday at the Texarkana Public Library.

The seminar will be from 2 p.m. to 4 p.m. in the library at 600 West Third Street, Texarkana, Texas.

Anyone with questions can contact Lisa McBay, SSA claims representative at 903-792-3818 ext. 231 or by e-mail at lisamcbay@ssa.gov.

It seems to me that policymakers in Washington and Baltimore cannot grasp that work incentives for disabled people do no good unless the public understands how they work. This sort of public outreach effort is desperately needed since the work incentives we have are so complex, but staffing is so short at Social Security offices that there is little of it.

Jun 14, 2008

2007 Technical Panel Report

This is definitely the "wonk zone."

The Social Security Advisory Board has finally released a [report that it received last year from a technical panel it assembled to review the Social Security Administration's actuarial projections.](#)

The report's "executive summary" needs an executive summary of its own, but as anyone familiar with Social Security's highly regarded actuarial operations would expect, there is no real criticism in the report.

Stats By Congressional District

The Social Security Administration has released a [set of statistics by Congressional District.](#)

Social Security On The Campaign Trail

From the [Associated Press](#):

Democratic Sen. Barack Obama on Friday called for higher payroll taxes on wage-earners making more than \$250,000 annually, a step that would affect the wealthiest 3 percent of Americans.

The presidential candidate told senior citizens in Ohio that it is unfair for middle-class earners to pay the Social Security tax "on every dime they make," while millionaires and billionaires pay it on only "a very small percentage of their income."

The 6.2 percent payroll tax is now applied to all wages up to \$102,000 a year, which covers the entire amount for most Americans. Under Obama's plan, the tax would not apply to wages between that amount and \$250,000. But all annual salaries above the quarter-million-dollar amount would be taxed under his plan, Obama said.

Obama also said his rival, John McCain, has indicated in the past he was willing to consider higher payroll taxes.

But Douglas Holz-Eakin, the Republican candidate's senior economic policy adviser, said that as president, McCain would not consider an increase "under any imaginable circumstance." ...

McCain, campaigning Friday in New Jersey, said Obama was misrepresenting his position.

"I will not privatize Social Security," he said. "But I would like for younger workers, younger workers only, to have an opportunity to take a few of their tax dollars, a few of theirs, and maybe put it into an account with their name on it. That's their money."

He told reporters later on his campaign bus: "Private savings accounts have to be voluntary, they have to be only for young people, and they can't be the centerpiece of the argument. We have to solve this problem and not worry about private savings accounts, because even though I support them, I don't think it's central to the issue. Central to the issue is that the system is going broke. Of course I'm not for privatization. But I do think young workers ought to have some options."

Current retirees would not lose any benefits, McCain said.

Fee Payment Stats

The Social Security Administration has released updated figures on payments of fees to attorneys and others for representing Social Security claimants. As I always say upon posting these numbers, the attorney is paid at about the same time as the claimant. When you see that payments of these fees go up or go down, you are seeing payment of benefits to claimants go up or down.

Fee Payments

Month/Year	Volume	Amount
Jan-08	20,559	\$75,368,163.45
Feb-08	26,570	\$95,228,284.32
Mar-08	23,088	\$83,166,027.02
Apr-08	27,296	\$98,616,579.78
May-08	29,305	\$104,283,373.35

Jun 13, 2008

Where You Are

I thought I would share some info from Google Analytics about the locations from which people are logging onto this blog. These figures below are from the past week for the United States. There are a negligible number of hits from outside the United States. The figure given is on the number of visits, rather than the number of page views.

Apparently, 77% of the visitors coming from the ssa.gov domain show Maryland as the location from which they are logging on and 23% show North Carolina. None show any other location, but obviously, people in other states are logging onto this blog from ssa.gov. My impression is that Social Security must have two major internet portals, one in Maryland and one in North Carolina, through which all ssa.gov access to the internet is routed, regardless of where the person accessing the blog may be sitting. The location of this portal is reported rather than the actual location of the user.

And, by the way, I have no way in the world of determining exactly who is reading this blog. Google Analytics gives a lot of information, but it cannot identify any individual.

24. Delaware	24
25. West Virginia	23
26. Connecticut	22
27. Alabama	20
28. Colorado	16
29. Maine	15
30. Utah	14
31. Oklahoma	13
32. Nevada	13
33. Wisconsin	12
34. Minnesota	11
35. Arkansas	10
36. Indiana	10
37. New Mexico	9
38. Louisiana	8
39. Kentucky	8
40. Arizona	7
41. Vermont	7
42. New Hampshire	7
43. Mississippi	7
44. Rhode Island	5
45. North Dakota	2
46. Nebraska	2
47. Hawaii	1

De Soto Clarifies Remarks

I had earlier posted that Lisa De Soto, Social Security's Deputy Commissioner for the Office of Disability Adjudication and Review, said at the conference of the [National Organization of Social Security Claimants Representatives](#) (NOSSCR) in Miami on June 5 that Social Security had received an additional 140,000 requests for hearing this year, a statement that if true would be stunning news. The next day I posted a report that I had received through the grapevine that De Soto had misspoken, that she had meant to say that the 140,00 additional cases was over the next few years.

I have now heard that Ms. De Soto has officially asked NOSSCR to notify its members that she misspoke in saying that there were 140,000 additional requests for hearing this year. She meant to say 140,000 additional requests for hearing over the next several years.

NPRM On Evidentiary Standards

As mentioned yesterday, the Social Security Administration has published a [Notice of Proposed Rule-Making \(NPRM\)](#) in the Federal Register that would define the terms "preponderance of the evidence" and "substantial evidence." It appears innocuous to me.

Hearing Backlog Growing

I have received a report from a well placed source that the backlog of cases at Social Security awaiting a hearing before an Administrative Law Judge (ALJ) is currently a whopping 769,000 and **increasing at the rate of about 10,000 per month**. Currently, 59% of these cases have not been worked up for review by an ALJ.

The math is pretty simple. On average, each Social Security ALJ is currently disposing of about 50 cases per month. 10,000 divided by 50 is 200. This means that just to prevent the backlog from growing, Social Security would need an additional 200 ALJs. To reduce the backlog would take more than 200 ALJs. Social Security's plans do not call for increasing the number of its ALJs by anything like 200. Therefore, Social Security has no current plan for preventing the backlog from growing, much less a plan for reducing it.

Jun 12, 2008

Voinovich Meets With Astrue About Backlogs



From a piece by Senator George Voinovitch (R-Ohio) published in the [Bucyrus Telegraph Forum](#):

In addition to overseeing individual cases for constituents, I am also pushing for improvements in Social Security on the national level. I have met with Michael Astrue, Commissioner of Social Security Administration, on multiple occasions to raise my concerns about the backlog of claims and the long delays in scheduling hearings throughout Ohio. In fact, Commissioner Astrue attended my roundtable in Ohio last year, where he sat down with the managers of all the Hearing Offices in the state.

I am particularly pleased that Commissioner Astrue has recognized the significance of the problem in Ohio and -- since January -- has hired 13 new administrative law judges. He assured me that the Social Security Administration expects to see further improvements when the automated case writing system and template is deployed.

Notice the willingness to believe that Commissioner Astrue has a plan to resolve the backlogs -- a very different tone than Democrats in Congress are taking.

NPRM Coming Tomorrow On Evidentiary Standard

Social Security has filed a [Notice of Proposed Rule-Making \(NPRM\)](#) that will appear in the Federal Register tomorrow. This NPRM, if adopted, would include for the first time in Social Security's regulations the following definitions:

Preponderance of the evidence means such relevant evidence that as a whole shows that the existence of the fact to be proven is more likely than not.

Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

This touches upon something very important, but it still seems so innocuous that it is hard to understand why they are bothering. This are standard definitions. Is there something here that I am missing?

Did They Notice The Irony?

From a [press release](#) issued by Allsup, a large non-attorney representer of Social Security disability claimants:

The nationwide rollout has begun and [Social Security Disability Insurance](#) (SSDI) recipients in some states already have the option of receiving their benefit payments electronically on a debit card, rather than via a paper check. However, eligible individuals – many of whom are “unbanked” – should have a clear understanding of the pros and cons of opting for the debit card, particularly the financial ramifications, according to [Allsup](#), which represents tens of thousands of people in the SSDI process each year. ...

One of the reasons that some Social Security recipients continue to insist on paper checks is the fear that their bank accounts could be attached by creditors. However, under federal law, Social Security benefit payments are protected from attachment, meaning creditors do not have the right to take these funds from a recipient’s bank account. The same rules will apply to funds placed on Direct Express debit cards. ...

"At any given time, there are likely millions of dollars in Social Security payments that are at risk because people on fixed incomes got into debt or are having a dispute with a creditor," said Gada. "Unfortunately, they are acting on inaccurate information that has them afraid to put their money into bank accounts where it can be protected and they can be afforded other benefits of being banked."

Here is a little nugget from [Allsup's website](#) concerning the services Allsup offers to corporations: *Maximize Social Security offsets and overpayment recovery for disabled participants. With our Overpayment Recovery Service, we will: ...*

Recover. *Withdraw overpayment funds directly from claimant’s bank account using our patented electronic process.*

Everyone Is Covering The Story Now



The Louisville Eccentric Observer, a free weekly, is running a [story](#) on the terrible backlogs of people awaiting hearings on Social Security disability claims, complete with a photo of the tombstone of a claimant who died awaiting a hearing. The tombstone was bought with the man's back pay.

Jun 11, 2008

An Inside View

From the [minutes of a May 6-9, 2008 meeting of the Executive Committee of the National Council of Social Security Management Associations \(NCSSMA\)](#), an organization of Social Security management personnel (emphasis added, as well as some explanations and a few comments):

Roger [McDonnell, Assistant Deputy Commissioner for Operations, who was meeting with the Executive Committee of NCSSMA on behalf of the Social Security Administration] stated **they are very pleased with the volume of hires and that 2350 out of 3900 went to the field [as opposed to Hearing Offices]**. He told us they are trying increase the 800 number staff including those in the DOC [Data Operations Centers]. They have increased 800 number resources to make sure we have enough staff to reduce the busy rates and assist some FOs [Field Offices] with their general inquiry calls. ...

Ready Retirement, the new online retirement application, will be released in September 2008. (Note: the September release is now called i-RRET) This release will be piloted for a few weeks and then implemented nationally. **[Notice that they are hardly bothering with piloting. Lack of adequate piloting is a longstanding problem at Social Security and has caused many problems over the years, but management is so sure that new processes are going to work and feel so much urgency to achieve productivity gains that they plow ahead and hope for the best, often creating major problems for the employees who actually have to work with the inadequately piloted processes.]** i-RRET will streamline the number of questions and will be in a more user friendly format. The release will only affect the front-end application. They expect that some time in 2010 back-end changes will be made which will allow some of the simplest RSI [Retirement and Survivors Insurance, i.e., not disability] claims to go right into pay. ...

Ron [Mitchell, an Executive Committee member] brought up problems with claims-taking companies and the poor product we get from them. Roger [McDonnell] said that there is another project called Disability Direct which they are developing and which they are hoping will encourage these groups to use the internet for their claims submissions. **We asked if we will be creating a new retirement claims-taking workload for local for-profit companies, such as H&R Block. Roger [McDonnell] said they are trying to make all of this so easy that such companies would not be needed. [Note that it appears that he did not answer the question.]** ...

The first five months of the FY [Fiscal Year] show that FO [Field Office] productivity is up by 11%, which virtually wipes out our backlog on paper. For the last six months, we were up by 9% (March was down). Roger [McDonnell] speculated that perhaps the rest of the FY will show decreased productivity as much of the increase was linked to claims which may be slowing down in the second half of the FY. ... **Bethany [Paradis, Executive Committee member] asked if it would be possible to convert some of our overtime hours to FTE staff. Roger [McDonnell] said it would not be fiscally prudent because as soon as October 1 comes those funds could go away. If that were the case, we would find ourselves needing to layoff those new hires....**

There is some speculation that more of the smaller TSCs [Teleservice Centers] may be closed and their staffs relocated to Card Centers ... Action: Greg [Heineman, NCSSMA President] should call Donnell [Roger McDonnell?, who was not present at this point in the meetings] or Linda [McMahon, Social Security's Deputy Commissioner for Operations, Roger McDonnell's boss] directly and ask them

why they are not putting replacements into the smaller TSCs. He should try to get as many specific answers as possible. [Note the concern about getting straight talk from Social Security upper management about an office closing issue.]

Much of these minutes was lined through on the NCSSMA Website. I assume this is a technical problem.

Jun 10, 2008

Social Security Starting To Look For Updated Occupational Data

One of the major bases for disability determination at Social Security is the Dictionary of Occupational Titles (DOT). There is just one little problem with the DOT. It is terribly out of date, meaning that there is a terrible flaw in disability determination at Social Security. I know, someone in an office in D.C. is reading this and thinking, "What are you talking about? Disability determination is medical. What does occupational data have to do with it?" Trust me. Occupational data is important in disability determination. To be disabled for Social Security purposes you have to be unable to do not only the work you have done in the past, but other work. How do we know whether there is other work that a person can do despite their physical or mental impairments? We look at occupational data. If that occupational data is out of date -- and not just by a little bit, but by about 20 years, the whole disability determination process is dubious.

What to do about the DOT problem? For a very long time, Social Security has looked the other way and just hoped no one would notice the problem, but people are noticing. The ground underfoot is starting to feel pretty shaky and Social Security is casting about for a solution.

I do not think this is going to come close to being a solution, but the Social Security Administration just posted this ["presolicitation" notice on FedBizOpps.Gov](#):

The Social Security Administration (SSA) has a need to acquire occupational information based on the Department of Labor's Dictionary of Occupational Titles (DOT), 4th edition. This DOT-based information will be evaluated in order to determine whether the data can be used in SSA's disability evaluation process in terms of current SSA disability guidelines. ... SSA anticipates awarding one or more firm-fixed price type contract(s) for this effort. The period of performance is anticipated to be for nine months in duration. The solicitation will be issued as a small business set-aside. It is anticipated that the Request for Quote (RFQ) will be issued on or about June 23, 2008. The selection decision will be on a low-priced, technically acceptable basis. ...

Pressure For More ALJs in NY

From a [press release](#) issued by Senator Clinton (emphasis added):

*With a **massive backlog** of pending disability cases continuing to build in Buffalo's Social Security hearing office and other offices across New York State, U.S. Senators Charles E. Schumer and Hillary Rodham Clinton today demanded that the Social Security Administration (SSA) revamp their efforts to reduce case backlog. SSA recently announced that they hired 135 new Administrative Law Judges (ALJs) to help ease the burden so many offices across the country are feeling. However, only ten of these new hires were assigned to New York hearing offices, despite the fact that New York residents wait on average a year before they even receive an initial hearing of their case and almost two years before their cases are fully processed. Of the nine New York State hearing offices, only four were offered new staff. ...*

*Today, in response to the **weak arguments** involving office space and the disappointing allocation of new hires to New York SSA hearing offices, Schumer and Clinton wrote to Commissioner Astrue,*

demanding a detailed explanation of the allocation process and how the SSA assignments would help reduce backlog in New York. The senators also urged SSA to reconsider their current allocation plan so additional placements could be made the high-traffic New York hearing offices as soon as possible.

*“It is **beyond unacceptable** that we have Buffalo residents waiting over a year or more for SSA to process their disability cases,” said Senator Schumer.*

If Obama is elected and Astrue decides to hang on, he is going to end up feeling like a punching bag.

State Of Social Security Budget For FY 2009

From the [Capitol Insider](#) put out by the Disability Policy Collaboration:

The House and Senate passed the Concurrent Resolution on the Budget for Fiscal Year 2009 that provides \$10.7 billion for the Social Security Administration’s administrative expenses. This amount is \$240 million above the President’s request. The additional resources are provided “to address the serious backlog of disability claims and hearings, as well as other backlog workloads for which additional resources are needed.” The conference agreement also rejects the President’s private account proposal for Social Security. The additional amount can be realized only if the Congress actually appropriates the funds through the FY 2009 L-HHS-Ed appropriations bill or a FY 2009 Continuing Resolution.

On June 6, fifty-two Senators signed a letter to Senators Harkin (D-IA) and Specter (R-PA), Chairman and Ranking Member, respectively, of the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, supporting an appropriation of \$240 million more than the President requested for the Social Security Administration’s administrative expenses. The letter cited the major delays in holding hearings on disability claims and SSA’s inability to process other important workloads.

By the way, you do not have to rely upon me for access to the Capitol Insider. [Subscription is free.](#)

House Appropriations Committee Schedules Markup On Social Security Budget

The Labor-HHS Subcommittee of the House Appropriations Committee has scheduled a [markup session for June 19](#). This subcommittee has jurisdiction over Social Security's administrative budget or "Limitation on Administrative Expenditures" (LAE). [The full Committee markup session is set for June 25](#). This concerns the budget for fiscal year (FY) 2009, which begins on October 1, 2008.

It is quite unlikely that Congress and the White House will be able to agree upon a budget while President Bush remains in office. The agency is likely to be operating on a continuing funding resolution until February or March of 2009. Still, the process going on now is likely to determine to some extent what is finally adopted next year. It sounds a bit hazy, but it is important.

Treasury Promotes Social Security Debit Cards

Both [USA Today](#) and the [Washington Post](#) are running articles promoting the use of debit cards for receiving Social Security benefits. The articles appear to have been sparked by the Department of the Treasury and are aimed at Social Security recipients who lack a bank account.

Jun 9, 2008

Presidential Poll


[Free Web poll for your Web site - freepolls.com](http://freepolls.com)

Your Pick For President

If the election were held today, who would get your vote for President of the United States?

<input type="checkbox"/>	Robert Barr, Libertarian Party
<input type="checkbox"/>	John McCain, Republican Party
<input type="checkbox"/>	Ralph Nader, Independent
<input type="checkbox"/>	Barack Obama, Democratic Party

[view results](#)



New Regulatory Proposal On Hearings

Below is a description of a [regulatory proposal](#) that the Social Security Administration has filed with the Office of Management and Budget (OMB). OMB approval is required before this may be published in the Federal Register as a Notice of Proposed Rule-Making (NPRM).

We propose to amend several regulations and provide new regulatory language to address inefficiencies in the hearings process. The amendments include provisions clarifying that claims denied by state Disability Determination Services and other adjudicators for “failure to cooperate” are technical denials rather than medical determinations, and providing flexibility in setting the time and place of hearings. We also intend to propose new regulatory provisions that will allow ALJs to dismiss a request for a hearing where a claimant has abandoned his or her claim and to specify regulatory standards that require ALJs to clearly articulate their rationale when issuing decisions on remanded claims.

Jun 8, 2008

An Idea From Japan

From [Kyodo News](#):

Japan should consider hiking the tobacco tax to cover the ballooning social security costs that are accompanying the rapid aging of society, economic and fiscal policy minister Hiroko Ota said Friday. ...

Chief Cabinet Secretary Nobutaka Machimura said Thursday raising the tobacco tax is an "interesting idea."

But he also said a sharp increase could prove fatal to thousands of Japanese tobacco farmers and the matter should be taken up by the ruling Liberal Democratic Party's tax panel.

Machimura also said he realizes the tobacco tax hike is being proposed also as a measure to curb smoking in Japan and reduce the related health problems.

NC Man Charged

From [WSOC](#) in Charlotte, NC:

A 46-year-old Denver [NC] man is accused by authorities of continuing to receive his parents' Social Security checks years after they died. Lincoln County Sheriff's Office Detective Lt. Hal Kluttz said in a statement that Timothy Mark Camp continued to receive the payments over a six-year period between 2000 and 2006 after his parents died. Kluttz said the checks totaled more than \$41,000.

Social Security Bulletin Released

The Social Security Administration has released [the most recent issue of the Social Security Bulletin](#), a scholarly journal mostly devoted to statistical research papers.

Jun 7, 2008

SEM, PPC And SEO Help Atlanta Law Firm

From a [press release](#):

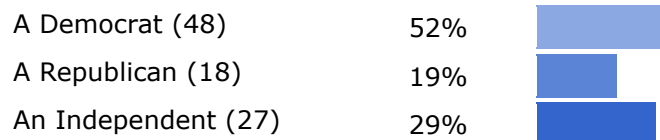
Berry and Associates has recently expanded on their nationally targeted search engine marketing (SEM) project for its website nationaldisabilitylawyer.com. The [Social Security Disability Attorney](#) firm has recently enabled an online pay per click (PPC) campaign.

The online marketing campaign is a supplement to a recent website launch and organic search SEO [Search Engine Optimization] project. The PPC campaign is designed to help increase traffic and visibility to the website for competitive high traffic keywords. A parallel link building project is being implemented to help gain natural search visibility within Google, Yahoo and MSN for significant [Social Security law](#) keywords.

"Berry and Associates has helped thousands of disabled people win Social Security Disability benefits. Our team is committed to helping the disabled receive SSDI and SSI benefits," explains Matt Berry, Founder and Principal of Berry and Associates. "We understand the Social Security Disability process can be frustrating and time consuming. Recently we have committed additional resources to further educate and help disabled consumers with SSDI and SSI Disability cases."

Unscientific Poll Results

Do you consider yourself ... ?



Total Votes: 93

Three Parter On Backlogs In Ohio Newspaper

The Crescent News of Defiance, Ohio has put out a three part story on the struggles that disabled people face while waiting for the Social Security Administration to adjudicate their cases. Note that this is a three part story in a small local paper! Here are the links:

- [Struggling to Survive](#)
- [There's Only So Much Agencies Can Do](#)
- [Filings Up, Staff Down Have Not Made A Good Mix](#)

Jun 6, 2008

That's A Relief

I have heard through the grapevine that Lisa De Soto misspoke in saying that there was a 140,000 increase in the number of new requests for hearing filed this year. There are several hundred people who can attest that this is what she said on Thursday at the conference of the National Organization of Social Security Claimants Representatives (NOSSCR) in Miami Beach, but it appears that that is not what she meant to say. Exactly what the 140,000 figure she mentioned represents is unclear, but apparently that number refers to the next several years rather than just this year.

This does not mean that all is well at Social Security. It just means that we are facing the emergency that we all are all familiar with, rather than that emergency plus an additional unexpected emergency.

Well Below A+ For Social Security

From a recent [audit report by Social Security Office of Inspector General](#):

Our objective was to determine the extent to which publication of the Death Master File (DMF) results in a breach of personally identifiable information (PII). ...

Since January 2004, SSA's publication of the DMF has resulted in the breach of PII for more than 20,000 living individuals erroneously listed as deceased on the DMF. SSA made these individuals' SSNs; first, middle, and last names; dates of birth and death; and State and zip codes of last known residences available to users of the DMF before learning they were not actually deceased. SSA attempted to retract these disclosures by deleting the individuals' information from the DMF. While these deletion transactions prevented the PII from being included in subsequent versions of the DMF, the deletions had no effect on the PII previously made available to DMF subscribers. In some instances, these individuals' PII remained available at the time of our audit for free viewing on the Internet. Public disclosure of living individuals' PII increases the opportunity for identity theft and subjects SSA to criticism from the affected individuals, the public and Congress and could subject SSA to legal action.

A+ For Social Security

From a recent [online posting by the Social Security Administration](#):

On May 20, 2008, Tom Davis, ranking member of the Committee on Oversight and Government Reform, announced the results of the Committee's annual evaluation of agencies' ability to safeguard sensitive information on government computer systems. The grades are derived from annual reports agencies produce to comply with the Federal Information Security Management Act (FISMA).

Agencies were rated on their annual tests of information security, their plans of action and milestones or corrective-action plans, whether they certify and accredit their systems as secure, how well they manage the configuration of their computers to ensure security, how they detect and react to breaches, their training programs and the accuracy of their inventories.

SSA received a grade of A+ with high confidence in the results because of sterling financial audits. Click [here](#) for the Fiscal Year 2007 annual FISMA report card.

Jun 5, 2008

Lisa De Soto At NOSSCR Conference -- 140,000 Unexpected Requests For Hearing!

Lisa DeSoto, Social Security's Deputy Commissioner for the Office of Disability Adjudication and Review, spoke today at the conference of the [National Organization of Social Security Claimants Representatives](#) (NOSSCR) in Miami. I will summarize only those things she said that sounded like news to me, with my comments in brackets and italicized following.

- The Social Security Administration is receiving 140,000 more requests for hearing this fiscal year than expected. *[This is stunning news. This changes everything. Social Security had a plan that, if you squinted hard and really wanted to believe, would eliminate the backlog of cases awaiting a hearing before an Administrative Law Judge (ALJ) by 2013. That plan does not begin to solve the backlog with this increased number of requests for hearing. By my rough calculation, Social Security now needs 250 more ALJs than they previously thought. There was no sign that Social Security's plans have changed a bit to deal with this new fact. Has anyone mentioned this to the Congressional committees involved?]*
- There are no longer any cases that have been awaiting a hearing before an ALJ for 1,000 days or longer. *[But the total number of people who are waiting for an ALJ hearing has to be rising rapidly because of those 140,000 unexpected requests for hearing.]*
- There were 28,623 cases in which claimants had been awaiting 900 days or longer for an ALJ hearing, as of May 31, 2008. De Soto wants that number down to zero by the end of the fiscal year -- September 30, 2008. *[But the total number of people who are waiting for an ALJ hearing must be rising rapidly because of those 140,000 unexpected requests for hearing.]*
- Approximately 17,000 claimants have been approved as a result of informal remands, also known as re-recons.
- Informal remands, also known as re-recons, will be extended to e-files.
- As of May 31, 2008, there have been 14,974 senior attorney decisions.
- The prognosis for the next fiscal year, which begins on October 1, 2008 is "not positive." De Soto emphasized the near certainty that the agency will be operating under a continuing resolution until well into the fiscal year as a reason. *[It will certainly be difficult for the agency to work under a continuing resolution for what may be six months, but the 140,000 requests for hearing that no one planned for may be an even bigger problem.]*
- There are now five ALJs in the national hearing center in Falls Church, VA. They are helping out with cases from Cleveland, Atlanta and Detroit. She plans to add five more ALJs to this national hearing office.
- A second national hearing office is to be added in Albuquerque. This office is to have six ALJs.
- 73% of the the cases pending upon requests for hearing was e-files by March 2008.
- [The Forms Integrated Templates \(FIT\) that may be used to draft favorable decisions by attorneys representing claimants is now available in MS Word on Social Security's website.](#)
- E-pulling of exhibits is about to be implemented in Tupelo, MS on a pilot basis. De Soto claims that e-pulling of exhibits is 80% accurate. *[Everyone I have talked other than De Soto has rolled*

his or her eyes when the subject of e-pulling came up. Skepticism about e-pulling is nearly universal in the field.]

- E-scheduling of hearings is to be in place nationally by October 2008. *[It would be nice to get e-files truly working before we go on to "E" anything else.]*
- There will be 60,000 more ALJ dispositions this year than last. *[But the 140,000 unanticipated increase in the number of requests for hearing completely overwhelms the 60,000 increase.]*
- Social Security is "aware" of a need for a better network of Vocational and Medical experts.
- De Soto wants new regulations in the near future regarding the Disability Review Board in Region I, to allow the Appeals Council to dispose of these cases. *[This is part of the fallout from the demise of former Commissioner Barnhart's doomed plan for dealing with Social Security's backlogs]*

Nancy Shor At NOSSCR Conference

A few excerpts from the remarks made by Nancy Shor, the Executive Director of the [National Organization of Social Security Claimants Representatives](#) (NOSSCR), at the NOSSCR conference in Miami Beach:

- The Appeal Council will be getting the capacity to handle e-files.
- Social Security currently has 12 disciplinary actions against Administrative Law Judges (ALJs) pending at the Merit Systems Protection Board (which adjudicates these actions). Social Security Commissioner Astrue plans to decide what to do next on ALJ discipline after seeing the results of these actions.
- The Social Security Administration wants to start tracking fee petitions.
- There are problems with direct deposit of funds for representing Social Security claimants into bank accounts with Wells Fargo Bank. The bank is insisting that the direct deposits may only go in escrow accounts.
- The Department of Veterans Affairs (VA) will not require attorneys to take an examination in order to represent claimants before that agency, but will require VA specific Continuing Legal Education courses.

Marianna LaCanfora At NOSSCR Conference

Marianna LaCanfora, the Assistant Deputy Commissioner for the Office of Retirement and Disability Programs, spoke today at the conference of the [National Organization of Social Security Claimants Representatives \(NOSSCR\)](#) in Miami Beach. I will attempt to summarize only those things she said that seemed new to me and add a few comments in brackets and italicized.

- Social Security expects a 40% increase in retirement claims and a 10% increase in disability claims over the next ten years.
- In the next year or so, the "principal representative" (a term which she did not define) would be able to file claims for their clients as well as form 1696 online. The "principal representative" would be able to file form 1695 online and get a receipt. She hopes that this will become not only possible, but mandatory -- for represented claimants.
- Beginning in September 2008 Social Security will begin testing online attorney access to Social Security e-files. She hopes to make this generally available by early 2009. *[Early 2009? I will believe it when I see it.]*

- She wishes to introduce an automated system by which medical records are obtained automatically before claims files ever reach Disability Determination agencies for adjudication. A Harvard professor has convinced her that this is possible. *[Maybe for one Boston hospital, but it is pure fantasy to talk about this happening generally at any point in the reasonably foreseeable future.]*
- She expects far more Listings to be published in 2009. *[I think that she needs a reminder that there will be a new President next year and that all rulemaking will be dramatically delayed as a result. If the new President is named Obama, everything in the pipeline will get a very detailed, skeptical examination.]*

Debit Cards Coming In Florida

From the [Treasure Coast Palm newspaper](#):

The government's use of ATM debit cards for payments to citizens is to expanding to incorporate thousands of Social Security recipients in Florida. ...

Nationwide, about 60,000 Social Security checks are forged annually and 600,000 are reported stolen, officials said. Millions of dollars are involved.

So by August, the federal Department of the Treasury is planning to start offering debit cards to Social Security recipients who don't have bank accounts in Florida. The federal program could help many of the nearly 11,000 Treasure Coast Social Security recipients.

While no local figures are available, nationally about 28 percent of Social Security retirement recipients nationally don't have checking accounts. The percentage figure is much higher — 59 percent — among disabled and lower-income individuals getting Social Security supplemental payments.

Jun 4, 2008

New Central Office Digs Coming

From the [Baltimore Business Journal](#) -- and make sure to read to the end:

The [U.S. Social Security Administration](#) could soon be vacating its Metro West facility in downtown Baltimore for a new city headquarters, more than 18 months after it started looking for new space.

The federal [General Services Administration](#), overseeing the search, said Wednesday it has narrowed its search to two sites in Baltimore City: 2600 Liberty Heights Ave.; and 6100 Wabash Ave. ...

The move would involve only a portion of Social Security's 300 N. Greene St. headquarters. ...

As the Baltimore Business Journal first reported Sept. 22, Social Security is planning to downsize to smaller space because of cutbacks in its workforce. ...

The agency once employed as many as 5,000 people, a number which has since fallen to under 2,000 people.

Criticism For Obama Plan

From [Dow Jones](#):

Some Social Security experts - including Democrats and liberal economists - are wary of a proposal from presumptive Democratic nominee U.S. Sen. Barack Obama, D-Ill., to shore up the federal retirement program by raising taxes on the highest earners.

Obama has said he wants to raise limits on wages that are subject to the 12.4% federal Social Security tax. That is the only specific proposal in documents from the Obama campaign directed at helping make the Social Security program solvent over the long term.

Under current law, Social Security taxes are collected only on the first \$102,000 of an individual's income, indexed for inflation. Proposals to increase or eliminate that cap have been around for years, advanced mostly by Democrats who claim that the wage cap unfairly burdens lower and middle-class workers.

But some economists and politicians warn that lifting the cap jeopardizes a feature that has underpinned the success of the Social Security system since its inception in 1935 - the notion that one will ultimately benefit from the system in proportion to what one has paid into it.

"As someone who has contributed to Obama's campaign and will vote for him in November, I don't think that's one of his better proposals," said Henry Aaron, an economist at the Brookings Institution, of Obama's plan to lift the Social Security wage cap.

I can only guess that Aaron's preference is for cutting benefits or raising taxes on poorer people.

Fraud In Montana

From the [Bozeman Daily Chronicle](#):

A 49-year-old Three Forks man illegally used his elderly mother's Social Security benefits to buy tires, pay taxes and cover his restaurant and bar bills, while simultaneously neglecting his mother's health and well being, according to the U.S. attorney's office.

Pendelton Bernard Merriam pleaded guilty to Social Security fraud in Helena on Thursday, according to the U.S. attorney for the District of Montana. ...

Merriam applied to be his mother's "representative payee," and promised to use the Social Security payments for his mother's current needs and save any "currently unneeded benefits for future use," according to the government.

SSI Monthly Stats

The Social Security Administration has released its [monthly package of statistics](#) from the Supplemental Security Income (SSI) program.

Jun 3, 2008

An Instant Classic!

You HAVE to see this [video issued by Transamerica!](#)

Fraud Allegation In PA

From the [Pittsburg Tribune-Review](#):

A federal grand jury in Pittsburgh has indicted a Fayette County man on a charge of Social Security fraud.

Shawn R. Johnson, 27, of Uniontown, is accused of failing to tell the Social Security Administration that he was hired by a Hopwood carpeting company and was receiving income that would have affected his continued rights to receive Supplemental Security Income benefits.

The indictment was handed down after an investigation by the Social Security Administration Office of Inspector General.

New ALJs In Wichita

From the [Hays Daily News](#) of Kansas:

The number of administrative law judges in the Wichita Office of Disability Adjudication and Review increased from five to seven in April when two new administrative law judges were added as part of a Social Security Administration initiative to hire 175 additional judges this fiscal year, according to Melvin Werner, chief administrative law judge in the Wichita hearing office.

The new judges, Alison K. Brookins and Michael A. Lehr, will conduct hearings and make decisions on appeals involving retirement, survivors, disability and Supplemental Security Income cases from the Social Security offices in Hays, Wichita, Hutchinson, Manhattan, Independence, Emporia, Salina and Dodge City, according to Judge Werner.

"I am very pleased to have two new judges of their legal experience and backgrounds join us here in Wichita," he said. "This is good news for disability claimants and others who file appeals with Social Security."

Judge Alison K. Brookins received her law degree from Washburn University School of Law in 1985. She was in private practice until 1991, when she joined the Wichita Hearing Office as an adviser.

Judge Michael A. Lehr received his law degree from the University of Missouri School of Law, Kansas City, Mo., in 1993. Prior to joining Social Security as an assistant regional counsel in Kansas City in 1997, Lehr worked at the Federal Reserve Bank of Kansas City and the U.S. Department of Housing and Urban Development, Kansas City, Kan.

Jun 2, 2008

New Regs On Reps Coming

The Social Security Administration has filed [two items with the Office of Management and Budget](#) seeking approval to publish them in the Federal Register as proposed regulations. One is entitled "Authorization of Representative Fees", but no further description is available so far.

The second item is more fully described:

SSA

RIN: 0960-AG56

Publication ID: Spring 2008

Title: *Representation of Parties (3396P)*

Abstract: *We are proposing several revisions to our rules on Representation of Parties. These proposed rules would recognize entities as representatives, mandate the use of Form 1696 to appoint or revoke the appointment of a representative, define the roles of a principal representative and a professional representative, require professional representatives to file Form 1696 electronically, and require a representative to keep paper copies of certain documents that we may require. We are proposing these revisions to reflect changes in representatives' business practices and to become more efficient in processing claims for benefits.*

This second item has potentially dramatic effects upon the practice of representing Social Security claimants. While it would simplify matters for the many law firms and other entities employing more than one attorney or representative, its biggest effect would be upon the largest entities representing Social Security claimants, namely Allsup and Binder and Binder, both of which are regarded warily by most who represent Social Security claimants. This would dramatically advance the interests of those who wish to nationalize the representation of Social Security disability claimants.

More Nonsense From GAO

The Government Accountability Office (GAO) has issued a report entitled ["Federal Disability Programs: More Strategic Coordination Could Help Overcome Challenges to Needed Transformation."](#) You can tell immediately just from the title where we are going with this one: Everything is the fault of those stupid bureaucrats.

Here is the GAO's summary:

SSA and VA have taken some initial steps to recognize a more modern concept of disability, but both agencies still encounter challenges in fully assessing an individual's capacity to work and in addressing claims processing problems. SSA and VA have revised some eligibility criteria to reflect medical advances and to support beneficiaries' efforts to return to work and achieve self-sufficiency. However, their revisions to eligibility criteria fall short of fully incorporating a modern understanding of how technology and labor market changes should impact eligibility for disability benefits and return-to-work rates remain low. The low return-to-work rates may be due, in part, to the timing in which certain supports are offered to beneficiaries. However, the timing of services are constrained by several factors, including program design, laws, and the agencies' limited span of authority over benefits and services offered by other agencies. Finally, although SSA and VA are taking steps to address management

challenges, both agencies continue to experience delays in processing disability claims and persistent backlogs.

What is "a more modern concept of disability"? I think they mean that they want Social Security to deny more disability claims because modern medicine is so miraculous and employment opportunities are so great for disabled people. If this is what they mean, they are naive. Modern medicine has not conquered pain. Modern medicine cannot halt the aging process or prevent the progressive nature of chronic illnesses such as diabetes and osteoarthritis. Modern psychiatry has not conquered schizophrenia and does little for many suffering from bipolar disorder. Employment opportunities mean nothing when you are in severe pain or so ravaged by mental illness that you cannot show up for work regularly, stay at work once you get there, keep your mind on your job or get along with co-workers and supervisors.

The belief that more disabled people could return to work if Social Security would just adopt enlightened rules is ridiculous. Cannot GAO see the enormous failure of Ticket to Work and draw the obvious conclusion? If the program is set up to pay benefits only to those who are half dead or fully nuts, why would anyone expect many people drawing disability benefits to return to work?

This report seems to be based upon the implicit assumption that disabled people are mostly wheelchair bound people. If you know nothing about disability, that must seem like a natural assumption. After all, a wheelchair is used as the very symbol of disability. The reality is otherwise. Pain and mental illness are the most important causes of disability. People in wheelchairs are only a small part of the disabled population.

It is time to stop being polite about the well-meaning fools at GAO. If this report is the best that GAO can do, it is time to ask whether GAO is a waste of money.

SSAB Produces Issue Brief On SSI

The Social Security Advisory Board (SSAB) has issued its [Issue Brief #4 entitled, "Need For Review of the Supplemental Security Income Program's Benefit Levels, Asset Limits, and Income Exclusions."](#)

Here is the report's bottom line:

Our specific recommendations are, as part of a comprehensive legislative review of the SSI program:

- *The Congress should consider how equivalence scales could be applied to the SSI benefit structure. Those scales should be applied to households regardless of the marital status of the members of the households.*
- *Research should be conducted to develop equivalence scales that would reflect the additional needs of beneficiaries with disabilities.*
- *Income exclusions and asset limits should be re-examined to ensure that they still serve the purposes for which they were developed.*

Calling merely for a "re-examination" of the SSI income exclusions and asset limits is hardly a bold step since the income exclusions and asset limits are absurdly out of date. I suppose we should be happy to get even such a hedged recommendation.

I do not see the idea of treating unmarried people living together as if they were married as realistic. It would be unenforceable. Is Social Security going to have police checking to see if someone is staying in your home or apartment with you? Many years ago that was how the Aid to Families with Dependent Children program worked, but that was scrapped because it was unworkable.

Jun 1, 2008

Fee Payment Stats

Social Security has finally issued [updated statistics on payments of fees to attorneys and others for representing Social Security claimants](#).

As I say every time I post these stats, they are an analogue for the payment of benefits to claimants, since the attorney and claimant are generally paid at the same time. Surges and lulls in payments of these fees reflect surges and lulls in payment of benefits to Social Security claimants -- and, yes, there are dramatic surges and lulls, as those who compute and authorize payment of these benefits are called away from the regular jobs to answer Social Security's 800 number calls, a phenomenon which is referred to as "spiking." Here are the stats so far this year:

Fee Payments

Month/Year	Volume	Amount
Jan-08	20,559	\$75,368,163.45
Feb-08	26,570	\$95,228,284.32
Mar-08	23,088	\$83,166,027.02
Apr-08	27,296	\$98,616,579.78

Buffalo News Editorial

The Buffalo News, which has been closely covering the story of the backlogs and delays caused by Social Security's inadequate staffing ran an [editorial yesterday](#), again calling for the agency to hire needed employees.