

SSA's Failure to Process SSI Appeals Requests

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Background

Justice in Aging's Issue Brief, [Why SSI Needs an Appeal Process That Works](#), provided an overview of how those who have a legitimate basis for challenging the Social Security Administration's decision to stop or decrease their Supplemental Security Income (SSI) benefits are harmed when they have no effective means of presenting their side of the case. Social Security regulations establish an administrative appeal process on paper that protects the due process rights of SSI recipients who face a reduction or loss of benefits. However, in practice, SSI recipients too often face roadblocks at reconsideration, the first stage of the appeal process. SSA's failure to process appeal requests can leave SSI recipients without the subsistence income they rely on to pay for food, housing and medical care.

The Issue

A big contributor to due process violations that hurt recipients is the lack of a way for SSA local office staff to log in appeals upon receipt. As a result, SSA regularly fails to process appeals or may lose reconsideration requests and supporting material. This happens whether requests are filed in person at the local office or sent via certified mail, even when an SSA employee signs the return receipt.

Frequent reports from advocates across the country show that SSA often did not contact them or their clients for months or even years after a request for reconsideration had been filed. Advocates also say that they only receive a response from SSA staff after making multiple phone calls, or sending e-mails and faxes to the local SSA office. Even months after it has been submitted when advocates contact a local office to confirm that an appeal has been received, SSA staff regularly cannot verify that it has been received or often fail to locate the paperwork.

SSA does not have a uniform system for logging in and tracking the appeals of proposed benefit suspensions and reductions. As a result, these appeals tend to not receive the serious attention required by law. The problem is compounded by understaffing at SSA's local offices nationwide which is the direct result of tight federal budgets. An SSI recipient's benefits will only continue unchanged if she files a request for reconsideration within 10 days (plus five days for mailing) of Social Security's notice of planned action. Therefore, the loss or delay in processing an appeal request can permanently affect an individual's rights. Plus, if a request for reconsideration is not filed within the 60-day statute of limitations, the recipient loses her right to appeal entirely.

The overwhelming majority of people are unrepresented by counsel at this stage of the appeal process. They are also not likely to get the necessary proof to show that they filed their appeal by the deadline.

Staff at SSA offices are required to help recipients file an appeal anytime the recipient disagrees with a determination. However, advocates also report that SSA employees do not consistently provide that help and

sometimes even tell recipients or their advocates that they are not allowed to appeal a determination. As a result, those with the right to appeal are turned away, their claims are simply not processed, and they can lose their income and a chance to appeal. District offices' failure to accept, process and respond to reconsideration requests in a timely fashion threatens both the economic security and health care of SSI recipients.

Recommendation

SSA needs a uniform system in place to input and track appeals by SSI recipients and to ensure that all requests for reconsideration are logged in upon receipt in a district office. In addition, subsequent steps in the remainder of the appeal process must be promptly recorded in the system, and such records must be available to supervisory personnel to enable them to track compliance with agency regulations better.

SSA already has an effective system to track the appeals of adverse disability determinations that enables the agency to report how many such appeals they have pending in each locality as well as how long they have been pending at each stage of the appeal process. It needs a comparable system in place to track the appeals of SSI recipients who want to challenge a decision that suspends or reduces their benefits. Until such a system exists and some accountability is established, it is unlikely that the processing of these appeals will improve significantly.

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Lucy Smith* is a 59 year-old woman living in Decatur, Georgia. Ms. Smith's SSI benefits were incorrectly suspended by the Social Security Administration in December 2008 and she appealed, but the local office denied her request for reconsideration. She had to wait until June 2010 for an administrative hearing. Following the hearing, an Administrative Law Judge reversed the suspension and found SSA owed her SSI benefits from January 2009 to August 2010, approximately \$13,480. Then, SSA issued a notice stating that they were reducing these retroactive benefits by one-third.

Ms. Smith's attorney filed a timely request for reconsideration on this issue in October 2010, since Ms. Smith believed she was entitled to the full amount of the retroactive benefits.

Over the next year, Ms. Smith received approximately \$5,000 of the back benefits owed to her in installments, but she did not hear anything further from SSA about her appeal.

Ms. Smith and her attorney contacted SSA multiple times, but nothing happened. Her attorney spoke with supervisors in the local office on at least six occasions who promised to investigate and get back to her, but they never did. In December 2012, after her attorney threatened to file a court action against the agency, SSA finally paid Ms. Smith the remaining money due to her, without issuing a written decision.

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