Proposed SSA Rules Would Hurt Persons with Disabilities by Severely Limiting Appeal Rights

The Social Security Administration (SSA) has published a proposed regulation that would significantly restrict appeal rights for persons applying for Social Security and Supplemental Security Income (SSI) benefits. The new rules would narrow the scope of appeals and institute many complex procedural requirements and time limits. As a result, severely disabled persons could lose their appeals not on the merits of their claims, but because of technicalities.

- The proposed rules:
  - **Conflict with statutory requirements and long-established jurisprudence** regarding claimants' due process rights.
  - **Would change the appeals process from an informal, non-adversarial process designed to be accessible to the lay person, to a much more formal, legalistic proceeding** that could result in denials due to the claimant's inability to navigate the procedural obstacles. This would particularly disadvantage claimants who are not represented by experienced legal counsel, who are less educated, or who have cognitive impairments or mental illness.
  - **Would severely restrict claimants' ability to submit relevant evidence** at their hearings or at later steps of the appeals process, limiting their ability to challenge erroneous SSA denials.
- Under the proposed rules, some **claimants would be forced to file new applications to ensure that relevant evidence was considered**, rather than continuing the appeals process. This could **severely penalize claimants**, causing significant delays, loss of retroactive benefits, and in some cases barring eligibility completely.
- Due to the restrictions on appeal rights, **fewer applicants would be awarded benefits, resulting in a more than $2.0 billion reduction in benefits paid** over a ten year period, according to the Social Security Chief Actuary. Applicants who are denied Social Security and SSI cash benefits would also lose eligibility for health care coverage under Medicare and Medicaid.
- SSA states that the proposed rules will help address its unprecedented level of backlogged disability claims by streamlining the appeals process. However, **the disability backlogs are due to chronic underfunding of the agency, <u>not</u> faulty appeals procedures**. Over the past ten years, SSA has received $4.6 billion less in administrative funding than requested by the SSA Commissioner and $1.3 billion less than requested by the President, resulting in severe staffing shortfalls even as workloads have increased.

For More Information:

- To read or submit comments on the Notice of Proposed Rulemaking (NPRM), go to www.regulations.gov. Search for the NPRM by Docket ID: SSA-2007-0044-0001. **The public comment period closes on December 28, 2007.**
- For additional resources, go to waysandmeans.house.gov and look for this issue under "Hot Topics."

Prepared by the Staff of the Committee on Ways and Means, Charles B. Rangel, Chairman, December 20, 2007