

NATIONAL
HEALTH CARE
for the
HOMELESS
COUNCIL

September 7, 2011

Michael J. Astrue
Commissioner
Social Security Administration
6401 Security Blvd
Baltimore, MD 21235-0001

Re: SSR 11-1p: Titles II and XVI: Procedures for Handling Requests to File Subsequent Applications for Disability Benefits

Dear Commissioner Astrue:

The SSI Task Force of the National Health Care for the Homeless Council (NHCHC) is comprised of representatives of numerous organizations who assist individuals experiencing homelessness with SSI/SSDI applications. Our group attempts to eliminate systemic barriers to accessing benefits for people who have a disability and are concurrently experiencing homelessness.

On July 28, 2011, SSA released a new ruling for handling requests to file subsequent applications for disability benefits (SSR 11-1p). SSA explains that the agency will no longer process a subsequent disability claim under the same title and type pending in the administrative review process. This new ruling repeals the procedure adopted in 1999 by SSA that allowed such subsequent claims. This new ruling is explained as necessary for addressing the increased number of initial and subsequent disability claims and conflicting decisions that must be reconciled. We believe that the recent ruling will unintentionally prolong homelessness for those attempting to gain life stability and lead to homelessness for those just barely maintaining stability. Further, the ruling does not address the core problems that contribute to increased subsequent claims and conflicting decisions.

People who have disabilities represent 40% of the homeless population, compared to 15% of the general population; such numbers serve as testimony to the inability of many to navigate an already complex SSI/SSDI acquisition process. People who are homeless and who become homeless often have inconsistent treatment histories, no resources to attend appointments and evaluations, mental health problems that affect cognition and ability to organize and navigate through the complexity of the process, and so on. As they move through the appeal process, at each step along the way, it is only when advocates, case managers, and treating clinicians assist that the process moves along more adequately.

For homeless SSI applicants, this ruling is terribly harmful as it loses their earlier protective filing date (if they choose to submit a subsequent application of the same type). The loss of their earlier protective filing date can result in the loss of thousands of dollars of benefits, which could be used for meeting basic needs such as housing. Having had the ability to re-apply once one is denied at hearing truly provided people who are homeless and unstably housed with just recourse in a process that typically disadvantages them in

many ways. As you know, hearings can take up to 1-3 years. For someone who is homeless, the choice between appealing and starting over is a significant decision that impacts when and if resources might become available to get into housing.

We believe that an increase in the number of initial and subsequent disability claims should not drive a policy that disadvantages claimants who are already struggling. Neither should the difficulty in reconciling decisions. Policy truly needs to be driven by what is fair and just for claimants and should address core problems, rather than the consequences of problems. In this case, the problem stems from inadequate initial applications as well as inadequate training and oversight at all levels of the determination process.

Certainly, both SSA and the advocates want to achieve an accurate determination as early on in the application process as possible. To this end, the advocates represented in this task force have developed trainings for case managers, clinicians, and others involved in the disability determination process. Both SOAR and the Documenting Disability Training for Medical Providers work to increase the documentation and clarity of applicants' disabilities at the initial claims process. We have also offered to conduct trainings for SSA staff and ALJs to increase understanding of the link between homelessness and disability and systemic challenges to accessing benefits.

This ruling was stunning to us, and we urge you to re-consider it. As a public service agency, we believe SSA's primary focus should be on ensuring just and fair access to benefits for people who live with disabilities. We believe this ruling does the opposite. **At minimum, we urge SSA to recognize the earlier protective filing date for awarding benefits retroactively.**

We look forward to hearing from you and thank you for your consideration. Please contact Sabrina Edgington at sedgington@nhchc.org if you have any questions. Thank you.

Sincerely,
SSI Task Force,
National Health Care for the Homeless Council

cc: Richard Balkus, Associate Commissioner for Program Development and Research
Office of Retirement and Disability Policy, SSA

Robert Pfaff, Homeless Outreach and Research Coordinator, Office of Program Development, SSA

Mary Beth Rochowiak, SSA

Jennifer Ho, Deputy Director for Accountability Management at the United States Interagency Council on Homelessness.

About the National Health Care for the Homeless Council (NHCHC) and the SSI Task Force.
NHCHC is a membership organization comprised of over 100 organizational members and over 1000 individual members who work to improve the health of homeless people. NHCHC organizational members include grantees and subcontractors of the federal Health Care for the Homeless funding stream, other health care providers, and advocacy organizations. The SSI Task Force of NHCHC is comprised of representatives of our individual and organizational members who are dedicated to improving access to disability assistance for people experiencing homelessness.