



NATIONAL ORGANIZATION OF  
SOCIAL SECURITY CLAIMANTS'  
REPRESENTATIVES

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## **NEWS RELEASE**

For Immediate Release June 10, 2021

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**Americans unfairly denied Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) need help. Their lawyers also need help. They haven't been allowed a fee increase in 12 years.**

**Commissioner of the Social Security Administration Andrew Saul says he will move quickly to improve the fee structure.**

**WASHINGTON** – Lawyers and other claimant representatives who take on Social Security Disability and SSI cases haven't been allowed an increase during the last 12 years in the contingency fees that they are allowed to charge. The resulting exodus of experienced professionals who traditionally handle these cases could lead to the denial of benefits for thousands of Americans who need their Social Security benefits to survive.

But Social Security Administration (SSA) Commissioner Andrew Saul's recent comments in support of a raise in the fee cap and the exploration of additional ways to compensate disability professionals could avert this crisis, according to Barbara Silverstone, the executive director of the National Organization of Social Security Claimants' Representatives (NOSSCR).

Saul acknowledged in remarks made May 24 to more than 500 members of NOSSCR, that the fee structure for claimant representatives should be improved. He also announced that Associate Commissioner for the Office of

Disability Policy Gina Clemons has been assigned the task of exploring an increase in the maximum fee a representative can charge.

“The commissioner has final say,” Silverstone said. “He is the only one with the authority to bring the fee structure up to date.”

In a May 25 letter to NOSSCR, Saul reiterated that he was “very serious about changing the fee structure” and that “there is no reason we cannot accomplish this quickly.”

The agency has scheduled meetings in June to discuss first steps; is exploring ways of adjusting fees; and will make recommendations to the commissioner before Sept. 30, the end of the 2021 fiscal year.

Currently, adjusting fees can be done at no cost to Social Security’s trust funds or general revenue and attorneys and other representatives are paid out of the back benefits claimants receive.

“If the claimant is not found to be disabled and eligible, the representative doesn’t get a dime,” Silverstone said.

In May, prior to the commissioner’s address to NOSSCR, [a formal request from Silverstone to Saul](#) was made asking him to use his authority to create a fairer way of compensating claimant representatives. [A petition](#) signed by 2,500 lawyers, representatives, disability advocates, and other supporters calling for a raise also was presented to the commissioner.

[A lengthy list of organizations](#) that advocate for the disabled, along with prominent groups in the legal community have joined with NOSSCR in the request for updating the fee structure for disability representatives.

[Evidence shows](#) that decreased access to representation hinders the ability of claimants to navigate the complex and lengthy disability-determination process in which fewer than four in 10 claims are awarded even after appeals. When claimants have a representative, they are granted benefits at a rate nearly three times higher than those without representatives, [according to a study by the Government Accountability Office](#).

Jacob Bernhardt, a disability lawyer representing clients in Boise, Idaho, said he has had several clients who were clearly disabled and whose claims should have been granted without a fight.

“But these individuals simply weren't able to file a claim by themselves,” he said. “There are so many things that we know as representatives that individual claimants cannot possibly be expected to understand. Our assistance so often makes the difference between a denial and a favorable outcome.”

The Social Security Administration often denies Social Security disability income claims due to missing medical records, incomplete employment histories, or errors and misunderstandings.

“We’re the ones who obtain and submit evidence, question claimants and experts at hearings, write briefs, and assist in completing paperwork,” Silverstone said. “By performing these tasks, we cut through the bureaucracy and help both our clients and SSA operate more efficiently. We make the system work.”

Evidence files in an SSDI case can run into the thousands of pages. For example, Patty Hall, a disability lawyer in Ventura, Calif., recently had a case with a 4,083-page file that took more than 40 hours for her and a case assistant to organize. They had to put the documents related to physical and mental disabilities into chronological order and compile a spreadsheet noting each exhibit number, page number and treating source.

Although time-consuming, Hall said, the work paid off for her client. “The judge said that counsel's brief changed my mind about how I am going to rule,” she said.

SSA issues more than half a million hearing and appeal dispositions each year. More Americans are likely to have a case heard before a Social Security administrative law judge than by judges in any other federal courtroom or hearing room. Yet, SSA hearings are a mystery to most claimants.

Largely due to medical privacy issues, outside observers—even journalists—are unable to attend a hearing. Only the claimant, his or her representative, expert witnesses, and the judge are allowed in the hearing.

“Even well-educated clients have no idea how to ask the right questions so that someone in the field office will take them seriously and work out their problem, nor do they know what their rights are for reopening a prior decision or asking for good cause for late filing,” said Joanna Suyes, who practices disability law in Richmond, Va. “Attorneys are vital to making sure that clients are protected and able to navigate the elaborate maze involved in pursuing an SSDI claim,” Suyes said.

The cap on contingency fees has not been raised since 2009, despite significant increases in operating expenses for disability representatives, most of whom are sole practitioners or work in small law firms.

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*Find out more at: [www.NOSSCR.org](http://www.NOSSCR.org)*