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Disability applicants endure long wait in Ohio

Cleveland backlog totals 12,600 appeals

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The disability system in Ohio is as much of a disaster as Terry Van Gieson's belly.

People take one look and cringe.

Nobody, they say, should have to live like this.

For nearly two years, Van Gieson had to wear a plastic bag, like a diaper, around his stomach to collect his body's waste. He has other troubles, too. Numbness in his legs makes it difficult to walk or stand for long. He's diabetic. And recent surgery for his intestinal problems has him back in the hospital.

But his biggest worry is his Social Security disability check.

He can't get one, even though he paid into the system for 20 years while he worked. Twice, the government has told him no. He's not sick enough.

He appealed the decision in December 2005.

Ever since, the 41-year-old security guard from South Euclid has been waiting to see an administrative law judge in Cleveland to plead his case. In the meantime, he has sold his belongings. He lives off food stamps, \$115 a month in welfare and a girlfriend who has gone into debt supporting him. And he's hoping for his day in court.

More than 12,600 other people are waiting with him, according to numbers from the Social Security Administration. That's just to get a hearing in the Cleveland office, which handles cases from throughout Northeast Ohio. Of the U.S. Social Security Administration's 140 other hearing offices across the country, only six have bigger backlogs and one is in Columbus, according to 2006 Social Security data provided by the National Organization of Social Security Claimants' Representatives. The professional group is for lawyers and paralegals who help those filing for disability.

"It's just a mess," says Cleveland disability lawyer Marcia Margolius. "It's a broken system."

Bob Bonthius agrees. He's a senior staff attorney for the Legal Aid Society of Cleveland whose clients include those waiting for disability.

"It's a safety net so full of holes and so close to the ground, people can't help but get hurt," he says.

Any one of us could need that safety net tomorrow, says Mary B. McKee, another Cleveland disability lawyer.

"The most important thing is for the non-disabled taxpayer to realize what we're doing to each other here," McKee says, "because you're next, or your mom. You don't know whether you're the next guy who's going

to get MS."

Once again, Congress

holds a hearing

It's a national issue. At a congressional hearing on the backlogs held Wednesday in Washington, U.S. Rep. Earl Pomeroy, a North Dakota Democrat, called failed attempts to fix the problem an outrage.

"I am really beside myself about this," he yelled.

Cleveland Congresswoman Stephanie Tubbs Jones raised her voice, too, as she grilled Social Security leaders about how long disabled people had to wait for benefits.

"I'm tired of it," she told Michael Astrue, the new Social Security commissioner who was sworn in Monday. "It's something we must fix."

Astrue said he was committed to doing just that.

Comments like that have been made for years by other members of Congress and leaders of the Social Security Administration.

Cleveland knows firsthand.

Hundreds of local residents heard the head of the Social Security Administration tell them how she was going to reduce wait times at another congressional hearing held here - three years ago.

It was March 2004, when Jo Anne Barnhart, then-commissioner of Social Security, outlined her plan to shorten what she called an especially large and unacceptable wait in Cleveland.

"We expect these actions to significantly reduce the time to get a decision," she told George Voinovich at the Senate hearing he held here.

"These big tall folders aren't just files," she said. "They are people whose lives are affected by the job we do and how well we do it. These people are in dire need and counting on Social Security for support."

The Social Security Administration took action then.

Among the improvements it made in the Cleveland office were adding more judges and other employees and sending about 5,000 cases to hearing offices in other parts of the country where they were heard by teleconference.

Despite that, the problem didn't get much better.

The wait time for a hearing dropped slightly, from 20.6 months in fiscal 2004 to 19.2 months in fiscal 2006, according to numbers provided by the Social Security Administration. The Cleveland office had a longer wait than 120 of the other 140, according to December 2005 numbers provided by the lawyers group.

And the waiting list actually grew longer. In 2004, Voinovich said it had 8,796 names on it. Data from March 2006 shows the number of people waiting grew to 10,803. In the 11 months since, it has jumped to 12,609.

"Right now, notwithstanding all the good things Jo Anne Barnhart did, we're still having to say 'no' to these poor folks, 'We'll get to your hearing as soon as we can - it'll be 18 months from now,' " says Edmund Round, one of Cleveland's disability judges. "And we don't like that."

Social Security officials blame the long wait times on more people applying for disability.

"Disability cases are on the rise everywhere we go," says spokeswoman Carmen Moreno. "Obviously we're dealing with the baby boomer population."

That, she says, is why fixes the administration has made aren't helping.

But critics of the system - and there are plenty - say adding judges to help handle appeals is the wrong answer.

To fix the system, they say, you need to start at the beginning, where the real trouble lies.

And Ohio, they say, is a perfect case study.

A long, slow

process in Ohio

Only 27 percent of the initial disability claims filed in the state in 2006 were approved, according to Social Security officials.

That approval rate is lower than that of nearly every other state in the country. Only four - Colorado, Georgia, Mississippi and Tennessee - approved a lower percentage in fiscal 2005, according to numbers provided by the lawyers group. The national average then was 36 percent.

The 73 percent - tens of thousands of people - who are turned down can ask to be reconsidered by Ohio's Bureau of Disability Determination, which is funded by the Social Security Administration. Of those who go on to this step, only 11 percent get approved, government numbers show.

Each of those first two steps takes three to six months, sometimes longer, lawyers say, leaving many people without an income for a year while they wait.

The third step is to apply for an appeal and wait, like Van Gieson has, for many more months. By that time, many applicants have lost their cars, their homes and their health insurance. Their conditions often worsen; some die waiting.

Of the cases appealed to the Cleveland hearing office, about 60 percent get approved, according to local officials.

That high reversal rate is proof that the front-end of the system needs fixing, experts say.

"If you're having a two-thirds overturn, that really says there's a mess-up in the initial evaluation," says Romel W. Mackelprang, director of the Center for Disability Studies and Universal Access at Eastern Washington University outside Spokane.

The problem, Mackelprang says, is that Social Security is denying people because they don't follow the agency's unclear rules, not because they're too sick to work.

He knows that, he says, because he has heard it from Social Security workers.

"They've told me, 'I know this person is disabled. But because he didn't fill out the application exactly the way we want him to, I had to deny him.' "

Another problem on the front end, McKee says, is that people are denied disability even though government-paid doctors have examined them and deemed them disabled.

"That's just plain out of balance," she says.

Fix these problems, many say, and you will fix the backlog of appeals. And, in the meantime, prevent people from getting even sicker and more dependent on society while they wait.

That's the message people need to hear, says Jack Frech, director of the Athens County Department of Job & Family Services, which tries to get money and other aid to people waiting for disability.

Terry Van Gieson hopes something happens soon, as he lies in his hospital room recovering from a sixth surgery for his intestinal problems.

"In the beginning, I was angry," he says. "Now I just have a feeling of hopelessness. One day I was a working person with a car, packing my lunch and going to work. A couple of months later, I lost everything I had. Everything."

Plain Dealer researcher Cheryl Diamond contributed to this story.

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