

# **SOCIAL SECURITY ADVISORY BOARD**

## **STATEMENT ON THE SUPPLEMENTAL SECURITY INCOME PROGRAM**

Public Law 104-193 requires that members of the Social Security Advisory Board be given an opportunity, either individually or jointly, to include their views in the Social Security Administration's annual report to the President and the Congress on the Supplemental Security Income (SSI) program.

We appreciate the opportunity to present our views on this important program, and we have asked the Social Security Administration to include the following statement of views in this year's annual report, due May 30, 2003.

### **VIEWS OF THE BOARD REGARDING PROGRAM STEWARDSHIP AND THE DISABILITY DETERMINATION PROCESS**

In its comments in previous annual reports, the Board has discussed a broad range of issues and recommendations. In this report, we will confine our comments to two aspects of the SSI program.

The first is program stewardship, SSA's obligation to ensure that the public's funds are responsibly expended. Taxpayers who support the SSI program must be confident that their tax dollars are accurately expended. Claimants and beneficiaries must know that program rules are followed correctly and that benefits are accurately paid.

The second is the disability determination process. It is important to the SSI program, because most SSI beneficiaries receive benefits on the basis of disability. It has long been one of SSA's most challenging areas to administer. Our comments focus on both program administration and the need to transform the program to meet current and future realities.

### **Program Stewardship**

In 1997 the General Accounting Office (GAO) designated SSI a high-risk program because of its vulnerability to abuse and mismanagement, increasing overpayments, and poor recovery of outstanding overpayments. This January, GAO removed the program from its high-risk list, noting SSA's progress in improving the financial integrity and management of the program. GAO noted SSA's actions in obtaining legislation to prevent and to collect overpayments as well as administrative actions to strengthen SSI program integrity.

As GAO noted, however, the impacts of SSA's actions are not yet fully realized. A look at some recent data shows that the SSI program continues to need attention.

## **Payment Accuracy**

SSA conducts an annual stewardship study of the SSI program. The study examines a monthly sample of non-medical reviews of SSI cases in current pay status. The FY 2001 study, the most recent available, shows a statistically significant decrease in accuracy. The FY 2001 overpayment accuracy rate for preventable errors was 93.3 percent, down from 94.7 percent in FY 2000. Applying this rate to the universe of \$32.7 billion in SSI payments, the study projects \$2.2 billion dollars in SSI overpayments in FY 2001, a 29 percent increase from \$1.7 billion in FY 2000.

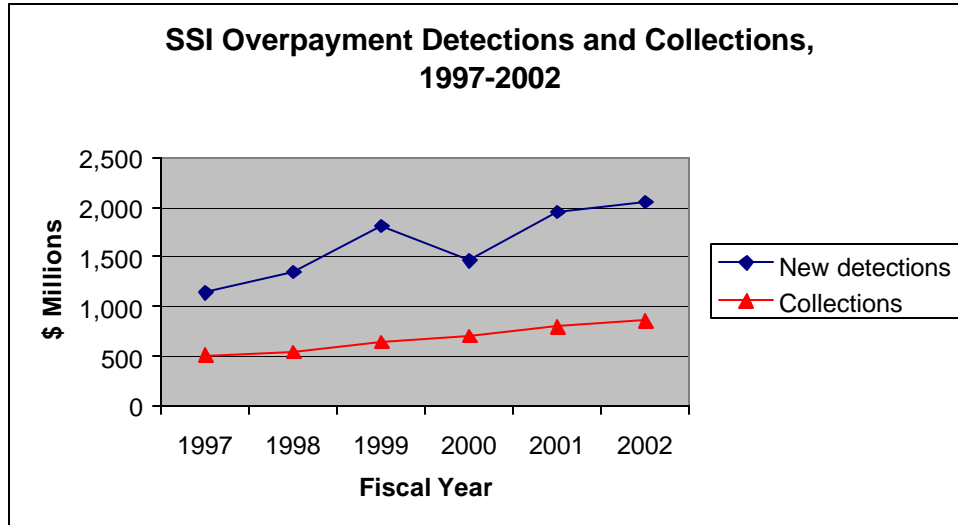
As the stewardship report points out, SSA has been more effective at detecting overpayments that have occurred than in the more difficult task of preventing them. The annual amount of overpayment dollars detected has increased by 80 percent since the SSI program was put on the high-risk list in 1997.

Field office managers have consistently expressed to the Board their concerns about the quality of SSI work done in their offices. They say that pressures for a high volume of production prevent their employees from taking the time and care needed to ensure quality. They add that because of the reduction in management positions in field offices, they are unable to do quality reviews. We hope that SSA's new Transaction Review quality review system will help improve the quality of work done in field offices by giving them useful and timely feedback.

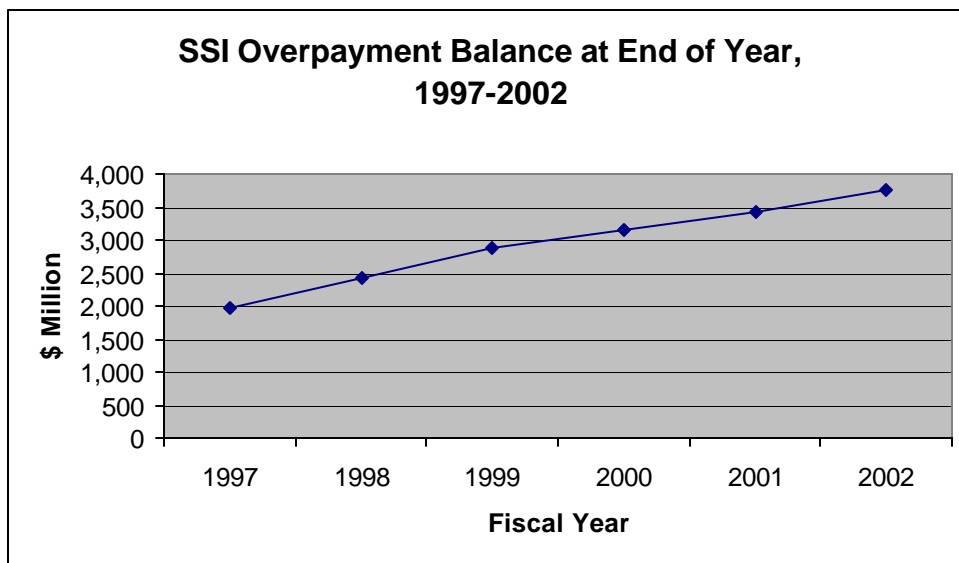
In order to improve accuracy, SSA has increased the number of computer interfaces with other sources of information on SSI beneficiaries' income and resources. While the source of the data is automated, it still takes staff time to resolve the issues the interfaces raise. The interfaces generate diary alerts that go to local field offices. Field office employees have told us that they are unable to process workloads of this type because of competing priorities. And members of the public have told us that SSA often does not act promptly on beneficiaries' work reports. We have heard that the fear of overpayments caused by such inaction is a major obstacle to beneficiaries attempting to return to work.

## **Overpayment Collection**

While the overpayment dollars detected have increased 80 percent since 1997, collections of those overpayments have increased by only 68 percent. Collections were 45 percent of new detections in 1997 but only 42 percent in 2002.



As a result, the overpayment balance at the end of the fiscal year nearly doubled during that period, from \$1.97 billion at the end of 1997 to \$3.77 billion at the end of 2002.



SSA has been gradually implementing new tools for debt collection. Because of resource limitations, SSA has followed a policy of prioritizing those that the agency thinks will have the biggest payoff, but progress has been slow.

The law provides that overpaid beneficiaries may request a waiver of collection of the overpayment, which the agency may grant under certain conditions. The Office of the Inspector General has raised questions about SSA's waiver practices. An SSA executive has told the Board that field offices often do not pursue overpayment collection because the staffs are too busy. It is easier for them to waive collection of the debt.

Collecting overpayments is highly cost effective. According to SSA, it costs about eleven cents to collect a dollar of overpayments. SSA should be moving more effectively to collect overpayments as part of properly discharging its stewardship responsibilities.

## **Disability Determination Process**

The disability determination process is important to the SSI program, since four out of five SSI beneficiaries are receiving benefits because of disability. As SSA's annual report on the program points out, the number of SSI disability beneficiaries is expected to grow by 17 percent over the next 10 years, and SSA will have to process an average of 1.7 million disability applications per year. The Board has issued reports and testified to Congress on the issues that need to be addressed in SSA's disability programs.<sup>1</sup> In recognition of the challenges facing SSA's disability programs, the GAO in January added these programs to its high-risk list.

In these comments on the SSI program, the Board would like to briefly consider two aspects of the SSI disability program: issues that need to be addressed in how the current program is administered and the need to adapt the program to meet current and future needs.

### **Issues in Program Administration**

#### ***Are disability decisions consistent and fair?***

For many years, both Members of Congress and others who have studied SSA's disability programs have expressed concerns about inconsistencies in decision making. These inconsistencies continue to be a concern. For example, in FY 2002, while the average allowance rate for initial SSI disability claims was 38.5 percent, the allowance rate ranged from 27.8 percent in Tennessee to 57.6 percent in New Hampshire. While economic and demographic differences among states explain some of this difference, they do not explain all of it.

There are other indications that the difference in outcomes reflects differences in how claims are adjudicated. For example, the percentage of SSI disability beneficiaries in 2001 with a diagnosis of mental retardation varied from 14 percent in Massachusetts to 36 percent in West Virginia. And the percentage with a diagnosis of other mental disorders ranged from 22 percent in Louisiana to 49 percent in Massachusetts. There are

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<sup>1</sup> SSA's *Obligation to Ensure that the Public's Funds are Responsibly Collected and Expended*, March 2002; *Agenda for Social Security: Challenges for the New Congress and the New Administration*, February 2001; *Charting the Future of Social Security's Disability Programs: The Need for Fundamental Change*, January 2001; "Reforming the Disability Insurance and the Supplemental Security Income Disability Programs," testimony before the House Ways and Means Committee, Subcommittee on Social Security, June 11, 2002; Statement by Hal Daub, Chairman, Social Security Advisory Board to the House Ways and Means Committee, Subcommittee on Human Resources, July 25, 2002.

apparent inconsistencies in denials as well as in allowances. In FY 2002, the percentage of claims denied because the disability was not expected to last for 12 months ranged from 2 percent in Rhode Island to 17 percent in Nevada. And the percentage of denials because the disability was not considered severe ranged from 2 percent in New Hampshire to 37 percent in Mississippi.

There also seem to be inconsistencies within State agencies. A study done for SSA under contract<sup>2</sup> examined the range of initial allowance rates across examiners in four State agencies. It found that the range of allowance rates was 10 to 19 percent greater than could be explained by random variations in the claims they examined.

A large percentage of claims that are denied at the initial level are appealed to the hearing level, where the majority of decisions reverse the lower-level denial of benefits. There are also geographic differences at the hearing level. In FY 2002, the national hearing-level allowance rate for SSI claims was 58 percent, with a range from 42 percent in Louisiana to 78 percent in Maine. There does not seem to be a correlation between high State agency allowance rates and low hearing reversal rates. In fact, the hearing-level allowance rate for New Hampshire, which had the highest initial-level allowance rate, was 74 percent, the third highest in the country.<sup>3</sup>

Despite the long-standing concern about consistency, SSA has no effective mechanism to provide the information needed to understand the degree to which the program's own policies and procedures – including their uneven implementation – are causing inconsistent outcomes in different parts of the country and at different levels of adjudication. As long as variations in decision making remain unexplained, the integrity and fairness of the disability program are open to question. This program is too important to the American public for this issue not to be addressed.

Some recent quality review reports also raise questions of decision quality at the hearing level. A peer review of hearing decisions on initial claims between October 1998 and July 2000 showed that reviewing judges found substantial evidence for ALJ decisions in only 85 percent of the favorable decisions reviewed and found errors of law in 38 percent of the cases reviewed. While both of these figures represent improvements over earlier reports, improvement is still needed. A report on hearing decisions on continuing disability reviews during FY 2000 and FY 2001 showed that reviewing judges found substantial evidence for the ALJ decision in only 75 percent of the favorable decisions reviewed and errors of law in 31 percent of the decisions. The review also showed that in unrepresented cases, ALJs had adequately informed the claimants of their right to representation only 81 percent of the time.

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<sup>2</sup> *Evaluation of SSA's Quality Assurance (QA) Processes and Development of QA Options That Will Support the Long-Term Management of the Disability Program*, Prepared by The Lewin Group, Inc.; Pugh Ettinger McCarthy Associates, L.L.C.; and Cornell University, Final Report, March 16, 2001.

<sup>3</sup> Hearing data is based on state of claimant's residence.

***Is disability policy being developed coherently and in accord with the intent of the Congress?***

Although Congress has not changed the law defining disability for adults for more than 30 years, the determination of what constitutes disability has changed in fundamental ways. For example, there has been a gradual but persistent trend away from decisions based on the medical listings to decisions that increasingly involve assessment of function. Today, many more decisions involve mental impairments than in the past. In addition, changes in agency rules mean that now all adjudicators must adhere to more complex and intricate requirements regarding such matters as determining the weight that should be given to the opinion of a treating source and making a finding as to the credibility of claimants' statements about the effect of pain and other symptoms on their ability to function. All of these changes have made decision making more subjective and difficult. These policy changes have been made through changes in regulations and rulings. A number of the most significant changes have grown out of court decisions, many of which have not been appealed. None of them have been reviewed by the Congress as to their effect on decision making or whether they are operationally sustainable for a program that must process massive numbers of cases.

***Can today's administrative structure support future program needs?***

Since the original Federal-State structure was established to administer the Disability Insurance (DI) program half a century ago, it has had to accommodate a growth in program size and complexity that it has been ill equipped to handle. In addition to working within a fragmented administrative structure, employees at all levels have been buffeted by periodic surges in workloads and funding shortfalls.

At the present time, all parts of the applications and appeals structure are experiencing great stress, and there is every indication that the difficulties will continue to grow unless changes are made. There are more than 15,000 disability adjudicators throughout the disability system. Their qualifications and the rules and procedures they follow differ, sometimes dramatically. For example, adjudicators at the State agency and ALJ levels may receive vastly different training and draw upon very different resources. Factors such as these raise questions about how well the administrative structure will be able to handle the growing workload.

**Adapting the Program to Meet Current and Future Needs**

When the SSI program began in 1974, it adopted the definition of disability used by the DI program. That definition was enacted in 1956, to meet the needs of a country with a manufacturing economy in which most work involved physical labor. The workforce then had a much lower educational level than is now the case. Some of the fastest-growing jobs in today's economy did not exist then. Nor did much of the medical, rehabilitative, and assistive technology that we now take for granted. Our society has also changed and now expects greater inclusion of and participation by people with disabilities. The Americans with Disabilities Act reflects these changing social

expectations and supports the view that people with disabilities can work and have the right to work.

Despite all these changes that could have resulted in expanded opportunity and employment for people with disabilities, the number of recipients of SSI disability benefits has tripled since the program began. Some of that increase, of course, is due to the growth of the population. But even viewed as a percentage of the eligible population, SSI disability beneficiaries have more than doubled in the same period.

To the extent that this growth has occurred because we as a society have not used the means at hand to keep people productive, we have failed. We have placed an inappropriate burden on the taxpayers who pay for these programs. We are undermining our economy, which faces severe labor shortages in the coming years. And we have denied the individuals involved the opportunities they should have to work and be productive.

SSA is conducting some valuable demonstration projects and research that may lay the groundwork for a transformation of its disability programs. For example, it is conducting a demonstration project to test the effectiveness of providing earlier return-to-work services to applicants, and it is conducting research on the transition to employment of childhood SSI beneficiaries and on how the change in distribution of occupations and industries has affected the probability of employment of persons with disabilities. Efforts such as these offer hope for the eventual transformation of the program, but we must continue to keep that goal in mind.

### **What Needs to Be Done**

The Board's reports contain a range of recommendations for improving SSA's stewardship of its programs and its disability determination process, and we will not repeat all of them here. Rather, we will focus on principles of reform and some actions that are especially relevant to the SSI program.

#### ***Goals and objectives of reform of the disability process***

At the time this is being written, we are looking forward to an announcement of SSA's plan to reform its disability process. We believe that reform of the disability programs should be evaluated within the context of clear goals and objectives:

- All who are truly disabled and cannot work should receive benefits.
- Those who can work but need assistance to do so should receive it.
- Vocational rehabilitation and employment services should be readily available, and claimants and beneficiaries should be helped to take advantage of them.
- Claimants should be helped to understand the disability rules and the determination process.
- The disability system should provide fair and consistent treatment for all.

- The disability system should ensure high quality decisions by well-qualified and trained adjudicators.
- The disability system should provide expeditious processing of claims.

### ***Maintaining the accuracy of the SSI rolls***

SSI redeterminations -- reviews of the income, resources, and other factors affecting SSI eligibility and payment amounts -- are an important tool in preventing and identifying payment errors. Over the last decade, however, program growth has outstripped the growth in the number of redeterminations. Over the period 1990-2002, the number of SSI beneficiaries increased by 40 percent, but the number of redeterminations increased by only 10 percent. It is encouraging, however, to see a recent increase in emphasis on the use of redeterminations, with nearly 300 more work years going to redeterminations in 2002 than in 2001. The agency has attempted to make the process more effective by using profiling to identify the cases at greatest risk of error. SSA plans to increase the number of high-error profile redeterminations by 21 percent in FY 2003. However, unless more staff is made available, SSA may have to put other important workloads on hold, creating other problems.

Continuing disability reviews (CDRs) examine the beneficiaries' conditions to ensure that only those who continue to be disabled remain on the rolls. With the help of special funding from Congress, SSA completed in FY 2002 a seven-year effort to become current with its CDR workload. SSI CDRs conducted in FY 2001 alone are estimated to save the SSI program \$1.7 billion over a ten-year period, with another \$800 million in savings to the Medicaid program. SSA projects that it would continue to be cost-effective to keep current with its CDRs. For FYs 2003-2011 the return on each dollar invested in CDRs is projected to be \$7. However, the agency expects to do only about 650,000 CDRs this year (both DI and SSI), rather than the 827,000 it would need to do to stay current.

SSA's Service Delivery Budget includes earmarked funding to enable it to carry out program integrity initiatives, such as SSI redeterminations and CDRs, that will pay for themselves. Congress should ensure SSA has the funds it needs to carry out these important cost-saving activities.

### ***Improve SSI and disability program policies***

Over the last three decades, SSI policy has tended to become more complex. This complexity makes the program more difficult and time-consuming to administer, more error-prone, and harder for beneficiaries to understand. The degree of complexity is reflected in the fact that in FY 2002, SSA spent nearly 34 percent of its administrative resources on the SSI program, which accounted for slightly more than 6 percent of its benefit payments.



Some of this complexity is inevitable in a program in which benefit amounts depend on, among other things, the beneficiary's other income and living arrangements. Unlike the OASDI benefit programs, SSI requires the agency to update its records to reflect changes in factors that may affect payments. SSA relies heavily on beneficiaries to report relevant changes, but it also initiates redeterminations. Benefit amounts can depend on such factors as the relationship of members of a household and the share of food, utility, and other expenses the beneficiary pays.

Over the life of the program, policies have been made more complex by legislation and court decisions. They have also been complicated by SSA's efforts to apply its rules fairly to people in differing circumstances. Simplifying SSI policies could do much to make the program more manageable and improve payment accuracy.

We understand that SSA plans to propose legislation to simplify some of its rules on the treatment of income for the SSI program. These proposals are a step in the right direction, and we encourage further efforts to simplify the SSI program.

SSA should also thoroughly review its disability policy rules and regulations to determine where changes can be made to improve the quality and consistency of decision making. Both medical listings and vocational guidelines should be included in this review. Where possible SSA should write these rules and regulations more clearly and simply so that adjudicators in different states and different levels of decision making will interpret and use them in the same way. SSA should follow up with regular training across all levels of the process.

As the Board has previously recommended, SSA should bring together into a single policy unit individuals with knowledge and experience in the Office of Disability, the Office of Hearings and Appeals, and the State agencies. We urge the agency to move forward as quickly as possible to strengthen its capacity to develop and oversee the implementation of disability program policy.

The Board is particularly concerned that, in a program where most decisions are based on vocational factors, the policy regulations in that area have not been revised for many years despite major changes in the nature of the national workplace. The Board is also concerned that vocational assessments continue to rely in large measure on an outdated Labor Department publication that is not being updated. The recently issued SSA strategic plan indicates a commitment on the part of the agency to remedying this situation. The Board believes the agency should place a high priority on fulfilling that commitment.

In addition, given the history of the many difficulties that SSA has had in carrying out the disability policies it has formulated, there is a demonstrable need for the agency to rigorously assess the potential impact of major policy changes before they are implemented.

### ***Improve the quality of disability program processes***

SSA has announced a new agency-wide quality management initiative but has not yet implemented an overall quality improvement process. SSA's new quality management initiative uses a definition of quality that balances the five elements of accuracy, timeliness, productivity, cost, and service. The message announcing the quality initiative stated that quality is too often equated only with accuracy or resources. It is certainly appropriate to adopt a balanced definition of quality. What the Board hears from the front lines of the agency, however, is that in practice accuracy is not valued as highly as productivity and timeliness. Getting things done is seen as more important than doing them right. As one manager told us recently, "SSA puts all its eggs in the productivity basket."

The Board has heard from many throughout the agency that the measures SSA uses skew activity toward productivity and timeliness and away from accuracy. Because productivity influences allocation of staff, managers have an overwhelming incentive to process work as quickly as possible, with no counterbalancing incentive for accuracy.

In order to improve payment accuracy, it is essential to put in place a more balanced set of incentives to reflect the agency's new balanced definition of quality. Incentives should encourage employees at all levels to do things right the first time.

The current system of pre-effectuation reviews, according to many observers, skews initial disability systems toward denials. Current law requires pre-effectuation review of a substantial percentage of DI claims that are awarded at the DDS level; in practice, 50 percent are reviewed. Legislation has been proposed and is currently pending in Congress for a similar pre-effectuation review of awarded SSI claims. Since pre-effectuation review is focused entirely on claims that have been allowed and since only a small number of denied claims are reviewed (about 70 a month for each DDS, regardless of size), it is not surprising that denial accuracy is significantly lower than allowance accuracy.

An outside evaluation of the disability quality system completed in 2001 highlighted the need for change in that system. It concluded that SSA's current system is of limited value in analyzing overall performance and in providing information that can be used to improve the quality of decisions. The evaluators recommended replacing the present quality assurance system with a totally new quality management system. The new system would provide information that could be used to improve disability policy and the disability system. It would identify variations in decision making by various components in the system and provide the information needed to address them.

### ***Ensure that resources are appropriately applied at each level of the process***

We cannot say what the appropriate level of resources would be for the disability determination process. Some would say that the disability determination process is already too costly. But the average present value of an award of adult SSI disability

benefits is in excess of \$75,000, including Medicaid. The cost of an initial disability claim decision in FY 2002 was \$569. The cost of a hearing was \$2,007.

If we look at Table V.C1 in this volume, showing dispositions of claims by year of filing and level of decision, we see some fairly stable patterns. Translating the data in these tables to a simpler, though rough, representation:

- Out of 100 adult applicants for SSI disability claims, 30 are allowed at the initial level.
- Of the 70 denied at the initial level, 32 request a reconsideration, and 5 are allowed.
- Of the 27 denied at reconsideration, 19 request a hearing.
- Of those 19, 11 are eventually allowed at the hearing level or beyond.

So, from the original 100, 46 are allowed, 30 at the initial level, 5 at reconsideration, and 11 past reconsideration. The cost of the initial decision for the 30 allowed at that level was \$17,070. The cost of the hearing decision for the 11 allowed at the hearing level was \$22,077.

Of the original 100, another 46 dropped out of the process, 38 after the initial decision and 8 after reconsideration. Another 8 were denied all the way through the process.

Looking at the numbers this way raises several concerns:

- Would it save money in the long run to spend more on the initial process, to collect more evidence, or to develop a more thorough rationale? SSA's process unification and prototype initiatives were intended to answer these questions, but were not adequately funded to do so. We have heard anecdotally that many claims are allowed at the hearing level that could have been allowed on the basis of evidence in the file at the initial level. We have also heard that many of the claims allowed at the hearing level could have been allowed at the initial level if they had been fully developed. We have not been able to quantify those claims. SSA should attempt to quantify these issues.
- No feedback is provided to the relevant State agency on these "on the record" allowances at the hearing level. This is a loss of potentially valuable information to the system that SSA should remedy.
- Of the illustrative group of 100 applicants described above, the largest sub-group is the 38 who drop out of the process after the initial decision. SSA should also look more closely at this group to ensure that they are being appropriately denied.

### **The SSI Annual Report**

SSA's seventh *Annual Report of the Supplemental Security Income Program* provides a useful review of some program data. It could and should do much more. The report should also address broad policy issues. We believe policy makers would find it

helpful if the annual report were also an annual forum for communicating a comprehensive overview of the program and a vision for its future direction.

We recommend again that the agency use its SSI annual report to bring to the attention of policy makers both the policy issues that it believes need to be resolved and the difficulties that the agency is encountering in administering the program. We do note that this year's report makes a small but useful step in this direction by including a general discussion of program simplification issues. Providing more of this type of information would help the Congress, the Administration, and the public to understand the challenges the agency faces and the need to address them.

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