

Don't deny access to justice

Editorial

June 9, 2014

Fighting the denial of a Social Security disability claim is a long and arduous process. By the time a case reaches the level of an administrative law judge, many claimants have been waiting two years or more for resolution of their cases — and for benefits, which are often desperately needed.

That raises the stakes considerably for appeal hearings, during which an administrative law judge will question claimants about their medical history and job prospects, talk to witnesses and listen to attorneys' arguments. The actual hearings are typically brief, giving applicants as little as 30 minutes to make their case — and they are the only chance the claimant has to talk to the person who will determine their fate.

Volusia County residents have an even more difficult burden. Over the past 18 months, they've been forced to travel to Jacksonville for face-to-face hearings, or consent to a videoconference hearing in a tiny room at the Social Security Administration's Port Orange office.

Neither alternative meets the letter of federal law, which says disability claimants have the right to be heard face-to-face. And even though Volusia County falls under the Jacksonville office's jurisdictional boundaries, federal law clearly gives disability claimants the right to transfer their cases elsewhere if the claimant lives closer to another hearing office or doesn't have reliable transportation. For most Volusia County residents, that means Orlando — it's closer for almost all Volusians, and Volusia County's Votran system and the SunRail train link to Orlando-area transit, making it easier for those who don't have cars.

Attorney Richard Culbertson, who represents several Volusia County residents, says Social Security Administration officials have been routinely rejecting all requests to move cases to Orlando — using the apparent logic that if they transfer any case, no matter how warranted the transfer, it will “open the door for future requests of the same nature,” as Social Security hearing office director Karen James of Orlando wrote in a January 2013 internal memo.

That logic is mind-bogglingly circular. Allowing one person to exercise her rights under federal law might lead to other people exercising their rights under federal law? That should be a goal for Social Security officials, not a threat.

It's clear, from voluminous correspondence provided by Culbertson, that both sides of this debate have dug in. Someone needs to blast it loose, and ensure that Volusia County residents — some of whom have become homeless while waiting for benefits, or seen their health deteriorate past the point of no return — are given a chance to have their cases heard in a timely, fair and accessible manner.

It's rarely advisable for politicians to become involved in individual cases, but perfectly appropriate for Volusia County's congressional representatives, John Mica and Ron DeSantis, to demand answers as to why the rights of Volusia County residents are, apparently, being systematically denied. It might also be useful for county officials to offer one of Volusia County's many courtrooms as a possible venue for hearings by a visiting judge.

Social Security disability isn't a giveaway. Claimants aren't eligible unless they've worked and paid Social Security tax. And while the hearing process does uncover fraud, it's worth noting that (according to the Cato Institute) more than half of people whose claims are denied eventually win their appeals. Given that, it's needlessly cruel to put an extra burden on Volusia County residents, and the sooner federal officials acknowledge as much, the more smoothly and efficiently the system will operate.