

# **SOCIAL SECURITY TRANSITION REPORT FOR THE BIDEN ADMINISTRATION**

“Social Security is the bedrock of American retirement. And in my administration, we won't just protect it. We'll expand it.”

– Joe Biden  
January 20, 2020

“We need to expand Social Security and provide our seniors and other beneficiaries of this vital program with greater dignity and peace of mind.”

– Kamala Harris  
February 13, 2019

Prepared and offered by Social Security Works, November, 2020  
Please contact the Social Security Works Communications Director, Linda Benesch, if you have questions: [lbenesch@socialsecurityworks.org](mailto:lbenesch@socialsecurityworks.org)

# CONTENTS

<b>INTRODUCTION.....</b>	<b>3</b>
<b>INSTALLING NEW LEADERSHIP AT SSA IS ESSENTIAL.....</b>	<b>4</b>
<b>IMPROVING ACCESS AND CUSTOMER SERVICE DURING AND POST-COVID... ..</b>	<b>8</b>
<b>ADDITIONAL ACTIONS TO PROVIDE THE FIRST-CLASS SERVICE AMERICANS HAVE PURCHASED AND DESERVE.....</b>	<b>13</b>
<b>EXPANDING ECONOMIC SECURITY AND SETTING A FORWARD-LOOKING RESEARCH AGENDA .....</b>	<b>16</b>
<b>ACTIONS TO BE TAKEN BY THE BIDEN ADMINISTRATION ON DAY ONE AND WITHIN THE FIRST ONE HUNDRED DAYS.....</b>	<b>21</b>
<b>APPENDIX A: MORE DETAILED DISCUSSION OF ADDITIONAL ACTIONS FOR FIRST- CLASS SERVICE.....</b>	<b>23</b>
<b>APPENDIX B: SPECIFICATIONS OF POTENTIAL EXPANSION LEGISLATION.....</b>	<b>28</b>
<b>APPENDIX C: REVERSING DESTRUCTIVE TRUMP ADMINISTRATION POLICIES.....</b>	<b>30</b>
<b>APPENDIX D: FORWARD-LOOKING SSA RESEARCH AGENDA TO INCREASE ECONOMIC SECURITY.....</b>	<b>32</b>
<b>APPENDIX E: SUMMARY OF RECOMMENDATIONS.....</b>	<b>34</b>

## INTRODUCTION

“Social Security is the bedrock of American retirement. And in my administration, we won't just protect it. We'll expand it.”

– Joe Biden  
January 20, 2020

President Biden won seniors in part because of his promise to protect and expand Social Security. That promise, along with the goal of delivering first-class service to seniors and others, will be impossible without new leadership at the Social Security Administration (SSA). Indeed, new leadership is a key to restoring Americans' support for government more generally.

Social Security is the face of the federal government. Nearly every worker in the country—about 178 million workers—contributes to Social Security, generally through highly visible deductions from every single paycheck. One in four households—more than 64 million beneficiaries—receives monthly Social Security benefits in the event of the death, disability, or old age of a worker. It is not merely another government program. It is a benefit earned by working families.

Like the United States Postal Service, Social Security is a beloved institution with which Americans are in constant contact. The series of more than 1200 field offices, like our local post offices, are a part of our communities. Pre-COVID, before the field offices had to be closed to protect public health, they averaged around [175,000 visitors](#) each and every day – over 40 million visits, in 2019 alone. In addition, around 33 million [called](#) Social Security's 800 number.

Americans contact Social Security at times of transition, ones often involving sadness, vulnerability, and stress—when a loved one dies, when someone is confronting a serious disability, or when a worker is approaching retirement after a lifetime of labor. Children too are protected against loss of household income when working parents die, become disabled, or retire. When children grow up and join the workforce, they, in turn, earn these protections for themselves and their families.

While important for everyone, Social Security benefits are particularly important to women, people of color, the LGBTQ+ community, and others who have suffered discrimination. President Biden has the opportunity to improve the adequacy of Social Security, as he promised to do in his campaign.

Expanding Social Security, as President Biden promised, is a solution. It is a solution to the nation's looming retirement income crisis, where too many workers fear that they will never be able to retire without drastic reductions in their standard of living. It is also a solution to the nation's rising income and wealth inequality, which President Barack Obama called “the defining challenge of our time.” It is a solution to the economic squeeze on working families. Expanding Social Security is also a way to stimulate the economy during today's hard economic times.

In addition to pushing to expand benefits while restoring Social Security to balance, the Biden administration should take other measures to restore the confidence of the American people in the future of the program. And, the Administration, under new leadership at SSA should restore the world-class service Americans have earned and purchased with their Social Security contributions.

## INSTALLING NEW LEADERSHIP AT SSA IS ESSENTIAL

“Let us, as we work, remember that each has a part in the whole effort, and that the job cannot be done without the help of each...Each job is essential. It is essential because it is needed to serve the American people, and particularly the elderly retired people, the widows and the orphans, and the disabled of the country.”

–Robert M. Ball  
Longest Serving SSA Commissioner

It is imperative to realize that every Senate-confirmed commissioner since 2001 [has been](#) a Republican. Indeed, in only eight of the last forty years has SSA had Senate-confirmed Democratic leadership.

Republican control at the top has brought a number of lower-level appointees whom the Social Security community views as hostile to Social Security. It has also brought harmful regulations, the closing of field offices, reductions in staffing, the termination<sup>1</sup> of annual mailing of earnings statements – notwithstanding that annual mailings are required by law and are extremely valuable for the American people to receive – anti-union animus, and other actions and attitudes that have degraded access, diminished service, and reduced confidence in the future of Social Security specifically and government more generally.

To reverse these harms and begin to restore American trust in government, the Biden administration must clean house. On Inauguration Day, President Biden should give Commissioner Andrew Saul the choice to resign or be fired and require all other SSA political Schedule C appointees, including Deputy Commissioner David Black, to vacate their offices that day.

Saul should be asked to resign, and not simply terminated, because the [statutory provision](#) setting forth his six-year term states that he can only be removed for “neglect of duty or malfeasance.” (Black also has a six-year term, which like Saul’s expires in 2025, but the statute does not protect him from removal for any reason.) In the unlikely event that Saul refuses to resign, the President should remove him nevertheless, citing as the power to do so the recent Supreme Court case, [Seila Law LLC vs Consumer Financial Protection Bureau \(2019\)](#).<sup>2</sup>

It is imperative that the current Commissioner and Deputy Commissioner, in addition to all other political appointees, be removed – even in the extremely unlikely event that Saul were to file a lawsuit. It is unworkable for the President to replace only the other political appointees, because they would have to report to a commissioner who has not appointed them and does not share their – or the

---

<sup>1</sup> Commissioner Michael Astrue terminated the statements starting in 2011. After his term expired and he left office, Acting Commissioner Colvin partially restored the statements, starting in 2014, but they have not yet been fully restored, in accordance with the law.

<sup>2</sup> The Supreme Court held in that case that a similar agency head had to be removable by the president to be constitutional. Indeed, in the opinion, the Court mentioned that “the CFPB’s defenders note that the Social Security Administration (SSA) has been run by a single Administrator since 1994. That example, too, is comparatively recent and controversial. President Clinton questioned the constitutionality of the SSA’s new single-Director structure upon signing it into law.”

President's – values and goals. (For a representative listing of just the destructive regulatory actions SSA has taken since the 2020 election, please see Appendix C.)

All political appointees should be replaced with civil servants in an acting capacity. The Commissioner that President Biden nominates should help select the remaining political appointees, to the extent those positions are still unfilled at the time of confirmation, as well as helping to identify those for part-time positions, including the two public trustees and the three presidentially-selected members of the Social Security Advisory Board (all of whom require Senate confirmation).

Once a new Senate-confirmed Commissioner is in office, that person should be included in Cabinet meetings and serve on the Domestic Policy Council. The Social Security Independence and Program Improvements Act of 1994 restored SSA to its original status of a cabinet-level agency, directly reporting to the president, with its own budget and own Inspector General. The commissioner President Clinton appointed to the independent agency was treated as the law anticipated, [explaining](#) at the time:

“As Commissioner of Social Security, I [Kenneth Apfel] consult directly with the President, Vice President, and other Cabinet officers, and issues related to Social Security are raised to the level of importance that they deserve. I attend Cabinet meetings, serve with the President's senior advisors on the Domestic Policy Council (DPC), and actively participate in the National Economic Council (NEC). In addition, I serve as a member of the President's Management Council.”

Providing the commissioner with Cabinet-level status and access would provide the president with timely, trusted advice on a program that affects virtually all Americans and has interactive effects regarding issues confronting numerous other agencies, including the Departments of Labor, Health and Human Services, Homeland Security, Treasury, and State. Moreover, SSA is among the largest federal agencies, both in terms of amounts of monies spent and size of its workforce. (As just explained, SSA was part of the Cabinet in the Clinton administration. It was not in the Obama administration, because the Commissioner was a Republican, who served from 2007 to 2013, and the Republican-held Senate failed to confirm the highly-qualified person the Obama administration nominated thereafter.)

Symbolically, restoring the SSA Commissioner to the Cabinet would clearly show the Biden administration's commitment to Social Security.

We confront a pivotal moment in the life of our Social Security system. The population is aging, leading some to believe erroneously that Social Security is no longer affordable and, therefore, its modest, but vital, benefits must be cut. Without an education campaign – one led by a new commissioner who can explain that expanding or cutting Social Security is a question of values, not affordability – an honest debate over the issue is impossible.

Furthermore, SSA is faced with an enormous and growing workload, in addition to a high level of public concern about Social Security's future – challenges exacerbated by the COVID-19 pandemic and resulting economic collapse. It is imperative that SSA have new leadership to

confront all of these issues. Because Social Security touches every American, and because the issues confronting Social Security are large and immediate, it is essential that the Commissioner shares the views of the Biden administration, subscribes to the new Administration's understanding of Social Security, supports its goals, and is a trusted advisor in the Cabinet.

The Commissioner should be a visionary leader, who understands fully what has made Social Security successful over its 85-year history. SSA's leader should believe deeply, and be able to communicate effectively, that it is all of our responsibility to leave, as our legacy, a program that is stronger and better, just as past generations have done for us. The Commissioner should be able to educate policymakers, the media, and the American people. That will require someone who has a thorough knowledge of the system, including its development and the rationale underlying its structure, respects its accomplishments over the years, and fully understands its importance in the lives of virtually every American.

The new Commissioner must be able to articulate a clear vision for this program that reassures all Americans, particularly the young, that Social Security is an enduring commitment between generations—a social compact that assures its future viability. Most importantly, the next Commissioner must be a vocal, articulate defender of the program against attacks and misinformation intended to undermine confidence and support. In addition to having a thorough knowledge of the history of the program and the policy underlying how it functions, the next Commissioner should be a person who is widely recognized as a defender and champion of the system.

Perhaps most important, the Commissioner is entrusted with ensuring that the American people receive the first-class service they have earned and paid for. The new Commissioner should have an unwavering commitment to equip and inspire SSA's dedicated workforce to deliver world-class service, and have the strong support of the workforce. The current political management team are seen as union busters. Not surprisingly, morale under that regime is low. The new Commissioner must be committed to restoring morale.

As a closely related matter, given years of inadequate budgets resulting in declining service and its impact upon staff morale within the agency, the next Commissioner must be prepared to argue effectively for adequate funding both inside the Administration, and to the extent that the Office of Management and Budget does not rescind its erroneous interpretation (see pages 14-15), the Commissioner must be prepared to persuade Congress to permit a higher ceiling or limit on administrative expenditures.

To be effective, that individual will also need to be well respected among the various constituency organizations in the Social Security policy arena. The next Commissioner should also have the ability to participate fully in interagency policy discussions with respect to the system's expansion and funding. As with all cabinet and sub-cabinet appointments, the nominee for this office should be of the highest character.

Who the Commissioner should not be is a general manager who lacks deep knowledge about Social Security. The Deputy Commissioner should be a person who knows the agency well, ideally one who has worked for the agency. While the Commissioner can and should be the face of the agency,

the Deputy Commissioner should be primarily responsible for the day-to-day operations.

There has not been such a public-facing, knowledgeable and articulate Commissioner for Social Security since the late Robert M. Ball, who stepped down from that position more than four decades ago, in 1973. In fact, most of the subsequent commissioners have had neither Ball's policy background nor vision. The agency – and the nation – are in desperate need of that knowledgeable and visionary leadership.

## **IMPROVING ACCESS AND CUSTOMER SERVICE DURING AND POST-COVID**

“[The New Deal was] an attitude that found voice in expressions like ‘the people are what matter to government,’ and ‘a government should aim to give all the people under its jurisdiction the best possible life.’”

–[Frances Perkins](#)

President Franklin D. Roosevelt’s Secretary of Labor

The programs administered by SSA—OASDI and SSI, as well as Medicare Part A eligibility determinations and prescription drug subsidy applications—are essential components of the economic security of virtually all Americans. They are especially important for the most vulnerable among us. Convenient and accessible service is particularly vital for those of low income, people with disabilities, and those with limited English proficiency.

As discussed above, the President should remove the current SSA leadership and name a Commissioner who is strongly committed to improving access and customer service for everyone, with a special focus on those who are most vulnerable. Respect and support of SSA workers and unions that represent those workers are essential to the achievement of this goal.

Achieving this goal in light of the pandemic, which required the closing of all SSA offices to the public, is especially challenging. Safely reopening those offices should be a Biden priority. In addition to removing, on day one, the political leadership of SSA, the President should instruct SSA to prepare a detailed plan for safely restoring and improving frontline services in the COVID and post-COVID era.

### **SAFELY REOPENING FIELD OFFICES**

The Biden administration should use the necessity of refurbishing the offices for safety as an opportunity to develop and showcase offices that will be welcoming, safe, and “green.” This planning should be done in close consultation with the workers and their union representatives. That consultation, if done transparently, will have the byproduct of signaling a change in attitude toward the workforce, which will unquestionably improve morale.

The plan should provide for priority opening in offices serving communities of color, low-income areas, and other neighborhoods more likely to require in-person services. It should ensure that the offices meet or exceed all Centers for Disease Control and Prevention guidelines to ensure safety, including the use of masks and other personal protective equipment, as well as the ability to maintain social distance.

In addition to ensuring that the reopened offices are “green,” they should be fully accessible to those with disabilities and employ staff that reflects the local community. In addition, the plan should evaluate the COVID-necessitated use of telework and evaluate, again working with labor representatives (as well as those working on IT modernization), a short- and long-term plan for employees who desire to work remotely.



The plan should also evaluate the existing locations and numbers of field offices, with the potential need to expand the number, given SSA's growing workload. With 10,000 baby boomers, on average, turning age 65 every day, SSA's workload was increasing pre-COVID. The pandemic is likely to add to that already expanding workload.

Many of the thousands of Americans who are dying from COVID every day are leaving behind dependents who are eligible for Social Security survivor benefits. Though the long-term impact of COVID on those who survive the infection is just being discovered, likely some will be unable to return to work and so will receive the Social Security disability benefits they have earned. Moreover, many unemployed older workers may find themselves unable to return to work or determine that it is unsafe to do so. They may, consequently, claim retirement benefits earlier than they planned.

SSA should immediately prepare itself for this likely increase in claims. In addition, it should also establish evaluation standards for applicants with long-term health effects of COVID-19 which inhibit or prevent their ability to work. In this regard, the Biden administration should instruct SSA to comply with the [June 25, 2020 letter](#) from Representatives John Larson (D-CT) and Danny Davis (D-IL), both chairmen of subcommittees of the House Ways and Means Committee, requesting that SSA seek the advice of the National Academies of Sciences, Engineering and Medicine on the long-term health effects of COVID-19, the effectiveness and availability of treatments, and how best to evaluate the long-term impact of the virus on survivors' ability to work.

### **ENSURING THAT EMERGENCY PAYMENTS ARE PAID IN FULL TO ALL THOSE RECEIVING SOCIAL SECURITY AND SSI**

Every month, nearly 65 million Americans receive Social Security benefits and over 8 million receive SSI payments automatically through direct deposits to bank accounts and transfers to debit cards. Nevertheless, millions of Social Security beneficiaries and SSI recipients may not have received the emergency economic relief that Congress intended.

To be clear, the government has their most recent bank information and other pertinent details to make these payments. They should have been the first to receive those payments, quickly and automatically. Rather than use the information the government already had in its possession to mail the emergency payments, the Trump administration instead placed roadblocks in the way.

Initially the Trump administration announced that those who didn't file tax returns for 2018 or 2019 had to apply for the emergency payments through a special website. Those who don't file income tax returns are the lowest-income among us and, consequently, the most in need of those emergency payments. After enormous pushback from Congress and Social Security advocates, the Trump administration reversed course. However, those same Social Security beneficiaries had only one day to prevent having a portion of those payments – the \$500 payments for dependent children – delayed until 2021. The IRS required that, to avoid that delay, those receiving Social Security and SSI had to go online – notwithstanding that many of them do not have computers or internet service and are most at risk from COVID and therefore most in need of sheltering in place. It is noteworthy that the Administration did not impose these roadblocks on higher income individuals, even automatically providing benefits to tax filers who subsequent to filing [had died](#).

Adding insult to injury, the portal on which to file was very user unfriendly, was not section 508 compliant, even though those required to file included those receiving disability benefits, and did not allow family, friends, or legal representatives to file on behalf of claimants. The payments, when made, were, unlike Social Security benefits, susceptible to garnishment or seizure by private creditors.

Moreover, those adult Social Security beneficiaries and SSI recipients who did not file taxes but did not begin receiving benefits until 2020, did not even receive automatic payments. They had to file online to receive them.

On day one, the new Administration should instruct SSA and IRS to work together to ensure that every penny of emergency payments provided under the CARES Act has been received by all Social Security beneficiaries and SSI recipients. To the extent there is uncertainty, the agencies should be proactive to ensure that no one is missed. Since we are in a new and bigger pandemic spike, and those who may not have received their full payments include the poorest among us, this outreach should be a top priority.

## **ESCAPING THE TRUMP FICA DEFERRAL TRAP**

On August 8, 2020, President Trump took executive action to defer, for four months, the dates when workers' Social Security contributions were due. While many private employers apparently chose to [ignore](#) the President's action, because of the costs and administrative hassles it would have produced, the Trump administration imposed it on federal employees, civilian and military, despite the objections of their union representatives.

The mandatory imposition of the deferral on captive federal employees was accurately characterized by Representative Don Beyer (D-VA), who [explained](#) that the Trump administration "treats the federal workforce as a guinea pig for a bad policy that businesses already rejected as 'unworkable.'" That means those workers confront a substantial reduction in their take home pay from January 1, 2021 to May 1, 2021. That is, the deductions from their pay for Social Security contributions will go from zero to 12.4 percent for those four months, before it returns to the statutorily required 6.2 percent. On day one, the Biden administration should, through the same executive action, extend the number of months over which the deferred contributions must be repaid, so that the amounts withheld are much less burdensome.

## **CORRECTING THE UNANTICIPATED COVID NOTCH**

The pandemic and resulting economic collapse has unearthed an unanticipated glitch in the law which, if uncorrected, could cause those who turn 62 in 2022 (and their families), as well as those who become disabled in 2022 (and their families), and the families of those who die in 2022, to receive lower benefits than comparable workers (and their families) who turn age 62, become disabled, or die in 2021.

It would be best if this COVID notch were corrected in the next COVID relief package, but it must be done carefully to ensure that no one's benefits are cut. Legislation has been introduced to correct the notch. H.R. 7499, the Social Security COVID Correction and Equity Act, corrects the notch in

the right way; S. 4180, the Protecting Benefits for Retirees Act, is the wrong way to fix the notch, because it cuts the benefits of workers otherwise unaffected by the COVID notch.

### **AFFIRMATIVELY REACHING OUT TO ENSURE THAT VULNERABLE COMMUNITIES HAVE MAXIMUM HELP**

The pandemic has exacerbated the challenge vulnerable populations face in seeking to access Social Security services, as manifested in the [extraordinary drop in disability benefit awards](#) during the pandemic. In Pennsylvania alone, disability claims have dropped by thirty percent. This is in striking contrast to other periods of economic downturns, when disability and other applications have, appropriately and unsurprisingly, increased.

The decline likely results from the unprecedented closing of all SSA offices. Those who depend on in-person access to SSA offices do not have that and may not even have access to assistance from third parties. In this regard, [important research by Professors Manasi Deshpande and Yue Li](#) finds that closing even a single field office results in people who would qualify for benefits not applying.

On day one, the new Administration should instruct SSA to develop a robust strategy to reach and assist vulnerable communities immediately. It should be instructed to undertake, as a top priority, the assessment of the lack of claims and the affirmative reaching out to increase the applicant pool and subsequent awards. The elements to achieve the goal of maximum help could include, among many other steps: (1) increasing third party assistance programs and outreach; (2) making applications simpler and increasing SSA's communications with claimants and their designated representatives; and (3) increasing efforts to obtain medical documentation and current opinions from treating medical sources. (In regard to that last step, gaps in treatment resulting from the COVID pandemic should not be used for denial of claims or greater reliance on non-treating medical providers.)

### **TAKING OTHER CRUCIAL STEPS TO ENSURE THAT VULNERABLE COMMUNITIES HAVE MAXIMUM HELP**

In response to the pandemic, SSA temporarily suspended reducing or stopping benefits due to overpayments. This was appropriate, but it has now resumed that work and, indeed, is requiring beneficiaries and recipients to apply to waive those actions even when the mistake was not theirs but the government's. This is wrong. On day one, those benefits should be protected, even if waivers have not been sought or provided.

More generally, the Administration should direct SSA to review the whole issue of overpayments. The emphasis should be on improper payments – including underpayments. Moreover, overpayments that result from government error, especially when the error was made many months or even years in the past, should be reviewed and treated differently from those made as the result of fraud and, perhaps, even simple error on the part of the beneficiary or recipient.

In addition, SSA should review its policies with the goal of getting more money to beneficiaries and recipients and – therefore – into the economy, during the current crisis. As just one example,

the rules regarding the use of dedicated accounts should be liberalized and simplified, so that low-income families can more easily and readily have access to the funds contained in them.

Dedicated accounts are required when children with disabilities receive substantial SSI back payments. Unlike regular monthly benefits or smaller back payments, the funds can only be used for very narrow purposes. If the funds are used for the benefit of the child, but inadvertently not for the restricted purposes, the family must reimburse the government!

In addition to the hardship imposed on impoverished families that include children with disabilities, dedicated accounts are extremely complicated and expensive for SSA to administer. It is for these reasons both Democratic and Republican administrations alike have called for their repeal. Until they are repealed outright, the Biden administration, on day one, should ask SSA to assess easing the rules so that the funds can be withdrawn and used. The action would be analogous to the action by Congress, in response to the pandemic, to [ease the access](#) of higher income Americans to their 401(k) and other retirement funds.

More generally, SSA should be asked to conduct a general review to increase payments during the current crisis.

## **ADDITIONAL ACTIONS TO PROVIDE THE FIRST-CLASS SERVICE AMERICANS HAVE PURCHASED AND DESERVE**

“Employees who would come in direct contact with the public were impressed with the importance of making certain that people were given necessary assistance in understanding their rights and duties. This included assisting claimants in the preparation of their applications for benefits under the federal old age insurance system and ensuring that those who had valid claims received the benefits to which they were entitled.”

—Arthur Altmeyer,  
First SSA Commissioner

That Americans who have earned Social Security receive the world-class service they deserve – and that every customer-service business must provide to remain successful – has been a hallmark of Social Security from the beginning. As the Altmeyer quote above makes clear, the mission of SSA is not just to administer Social Security and SSI, but to assist Americans so that they receive the benefits to which they are eligible.

SSA administers a vast caseload at minimal cost. It collects wage and salary contributions from 178 million workers, and expends over \$1 trillion in Social Security and SSI benefits to 70 million Americans each year. It has always been America’s most effective and efficient insurance provider. SSA spends less than a penny of every dollar on administration. The remaining more than 99 cents is returned to the contributors in the form of earned benefits.

### **PROVIDING FIRST-CLASS SERVICE**

SSA does – and should – provide numerous ways for the public to contact it. Perhaps most important are the local offices, which have existed for the entire history of Social Security. That is where the public can talk face-to-face – at least in non-COVID times – with well-trained, informative claims representatives. Those who choose not to visit a field office can contact SSA by telephone or online.

For world-class service, field offices have to be conveniently located, accessible, and adequately staffed to avoid long waits. Similarly, phone lines should be well-staffed and employees assisting people by telephone should be well-trained. Those calling should receive prompt, helpful, and courteous service, without long waits or busy signals. Those who choose to interact online should similarly find the website easy to navigate, with programs carefully designed, information accurate, and the information they disclose, secure.

The President’s Commissioner should be strongly committed to improving access and customer service through all these channels, with special concern for those who are most vulnerable. To effectuate that commitment and concern, the new Biden-named Commissioner should issue a written policy intended to provide employees with the clearest sense that high-quality, informed service is the most important job at SSA and that job performance will be measured on this basis.

Appendix A includes a detailed discussion of actions that should be taken to provide the first-class service the public has purchased and deserves. The appendix includes specific recommendations

regarding helping people understand their options for claiming benefits, as well as their consequences. It also focuses on the special concerns regarding people with disabilities and those with limited English proficiency, including ensuring their access to all services. Appendix A also focuses on ensuring timely and accurate initial disability determinations, hearings, and appeals.

In addition to those recommendations, the top leadership should restore more thorough, robust training of all new hires, so that they not only thoroughly understand their jobs, but also the history and purposes underlying the programs they administer. They should also understand the factors applicants should consider in making decisions for their own individual family circumstances. In analyzing customer service, it is imperative to recognize that the invaluable outreach and information service provided by SSA field offices has been dramatically scaled back from what it once was. That too should be restored, as discussed in the next section. In addition to the discussion in the next section of this report, Appendix A includes a detailed discussion and recommendations designed to provide increased and more targeted education and outreach.

## **ENSURING ADEQUATE FUNDING FOR THAT FIRST-CLASS SERVICE**

Providing world-class service requires adequate funding and staffing. Having thousands of fewer staff being asked to handle a steadily increasing workload is a recipe for declining morale in any organization. SSA is no different. Consistently inadequate budgets – requiring the closure of field offices, staff reductions, and potential layoffs or furloughs – further contribute to poor morale. Additionally, an overemphasis on online applications has effectively reduced SSA’s historic commitment to outstanding face-to-face service and personal attention to members of the public. That is not only a disservice to the public; it harms morale among SSA frontline staff, implicitly undervaluing their work.

To increase field office staff, of course, requires money. It is imperative to understand the funds to administer Social Security are not appropriated; rather they are limited. Each year, Congress places a limitation on administrative expenses (LAE). The LAE prevents SSA from being able to access adequate operating dollars from the Social Security and Medicare trust funds, which finance administrative costs for OASDI and administrative support for Medicare, respectively. Despite SSA’s enormous and increasing challenges and Social Security’s current accumulated surplus of \$2.9 trillion, Congress has placed severe limitations on its administrative expenses.

Last Congress, Senator Bernie Sanders (I-VT) [introduced legislation](#) to provide automatic appropriations of 1.5 percent of Social Security expected benefits. Wise as that legislation is, we believe that it is unnecessary.

Section 13301(a) of the Budget Enforcement Act of 1990 [unambiguously states](#):

“Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of (1) the Budget of the United States Government, (2) the Congressional budget, or (3) the Balanced Budget and Emergency Deficit Control Act of 1985.”

Social Security's cash benefits, which are paid from the program's trust funds, are, appropriately, not subject to annual appropriations or spending caps imposed by recent budget agreements. That is wise: Social Security has its own dedicated revenue. It cannot pay monies in excess of its income and assets, and it has no borrowing authority. Consequently, it does not add even a penny to the federal debt.

Without any logic whatsoever, however, the associated administrative costs, which are also paid from trust fund monies, are subject to the annual appropriations process and the spending caps imposed by recent budget agreements. There is no legal authority for the different treatment of administrative costs.

That different treatment results from an Office of Management and Budget (OMB) interpretation of ambiguous language, in the report accompanying the conference agreement, of the enactment of the above legislative language. That OMB decision, made during President George H. W. Bush's administration in the early 1990s, was deeply flawed.

Under well-established, uncontroversial principles of statutory interpretation, the clear statement in the actual law governs, and should not be overridden by ambiguities or even contradictions in the legislative history. Consistent with those principles, the Congressional Budget Office (CBO) [disagreed](#) with OMB. (Indeed, CBO offered a different interpretation of the ambiguous report language.) So did the then-Chairman of the Senate Budget Committee, in a letter he wrote to the OMB director. Nevertheless, OMB did not change its position, and that decision continues to affect the way that Social Security's administrative costs are treated to this very day.

We urge President Biden to instruct OMB to revoke the erroneous interpretation, and present his budgets in accordance with the clear, unambiguous language quoted above. Social Security's administrative budget should not have to compete with other agencies for its administrative funding in the annual appropriations process. There, of course, should be oversight regarding how much of Social Security's income and accumulated surplus should be spent on administration. In that regard, the House Ways and Means and Senate Finance Committees have excellent track records of oversight of SSA. That oversight should be more than sufficient.

If there is resistance from Republicans in Congress, we urge the President to make the issue a public one. Once the American people understand that field offices are being closed and wait times increased because Congress will not allow SSA to spend monies already contributed by workers through their paychecks, we believe the President will be widely applauded for his championing of the American people's right to receive the world-class service they have earned, paid for, and deserve.

Social Security had an accumulated [surplus](#), as of the end of 2019, of \$2.9 trillion. Allowing SSA to spend a tiny additional percentage of its dedicated income on administration would have the effect of restoring the administrative capacity of the agency to deliver the high quality, effective and caring service that the public has received in the past from SSA. At least a part of that increased funding should be prioritized towards adequately staffing field offices in densely populated, low-income communities.

## **EXPANDING ECONOMIC SECURITY AND SETTING A FORWARD-LOOKING RESEARCH AGENDA**

“We need to expand Social Security and provide our seniors and other beneficiaries of this vital program with greater dignity and peace of mind.”

—Kamala Harris  
February 13, 2019

The nation is facing a looming retirement income crisis, perilous levels of income and wealth inequality, and the increasing insecurity of financially-struggling working families. All of these challenges have been exacerbated by the pandemic and resulting economic collapse. Recognizing that Social Security is a solution, the Biden administration and the Democratic Party have wisely pledged to expand, not cut, Social Security, while requiring the very wealthiest to pay more. In addition to legislation, the Biden administration can and should take important administrative steps to address these challenges.

### **LEGISLATION TO EXPAND SOCIAL SECURITY**

The Biden campaign advocated a variety of targeted Social Security expansions, paid for by requiring the wealthiest to pay more. Last Congress, the House Ways and Means Committee and its Social Security Subcommittee held a number of hearings on expanding Social Security, focusing on many of the same proposals. Building on that effort, we urge the Administration to work with Social Security champions in Congress to develop legislation that is both excellent policy and politics.

In that regard, the Biden campaign also promised to lower Medicare’s initial age of eligibility and expand its benefits. By combining these legislative initiatives and reallocating some of the payroll contributions from Medicare to the cash Social Security benefits, a legislative proposal can be crafted that carries through on the campaign promise to not raise taxes on anyone earning less than \$400,000, yet restore both programs to long-range actuarial balance.

A more detailed description of how that can be achieved, together with a set of potential specifications, can be found in Appendix B. The proposal also includes expansions to Supplemental Security Income (SSI), in accordance with promises made by the Biden campaign. SSI, which is a companion program to Social Security, is [in desperate need](#) of updating, simplification, and expansion. Though the public’s awareness and understanding of SSI is limited and though SSI does not have the same strong political support as Social Security, the popularity of Social Security should be used as the engine to enact much needed SSI improvements, as well.

Once the proposal is developed, the House (and the Senate, if in Democratic control) should plan a series of hearings and other initiatives to garner favorable, widespread public attention for the proposal. The hearings, speeches, town halls and other efforts should be carefully choreographed. They should first set out, with compelling stories, the economic and health insecurity of older Americans. Once the problem is well established, they should be followed by a series of hearings on how the legislation is a solution, improving the economic and health security of everyone, paid for fairly by requiring those earning over \$400,000 a year to pay their fair share. In addition, the



legislation should be publicly marked up in Committee, reported to the Floor and voted on in recorded votes.

If designed properly, the effort will put Republicans in a bind. They must offer an alternative, which they have been unwilling to do, vote against popular legislation without offering an alternative, and provide bipartisan support for a major Biden administration initiative.

What the Administration should not do is participate in a bipartisan deal, negotiated behind closed doors, that cuts benefits – whether the deal is worked out under the cover of a commission, through a fast-track process, or in any other way. Historically, Social Security policymaking has been conducted through the normal legislative process, with public hearings and votes and without limiting the process through fast-tracking or other expedited procedures. Given Social Security’s importance, we believe this is crucial. Moreover, because the Democratic Party is more in line with the preferences of the American people across the ideological spectrum than the Republican Party, we believe Republicans should not be given political cover, but rather be held accountable for their unpopular and policy-poor views.

In order to be successful legislatively, the new Commissioner must build a strong legislative team headed by a Deputy Commissioner for Legislation and Congressional Affairs who has well-developed contacts with Congress, a high-profile presence, and views that match those of the Biden administration. The new Deputy Commissioner for Legislation and Congressional Affairs, as well as the new Commissioner, should already have close relationships with key members of Congress, relationships that can be deepened once the new leadership is in place.

The new Commissioner should also bring in and empower new leadership in the position of Deputy Commissioner for Communications. It is key that both of these extremely important positions be filled with people who can work together and make use of SSA’s massive resources and outreach ability to further the Biden-Harris objectives.

## **ADMINISTRATIVE ACTIONS TO INCREASE ECONOMIC SECURITY**

In addition to enacting legislation, there are important administrative steps that should be taken immediately to increase the economic security of Social Security beneficiaries. Over the last four years, the Trump administration has promulgated destructive regulations – some of which were finalized in just the last few weeks – as well as sub-regulatory rules, and executive orders. (A more detailed discussion of them can be found in Appendix C.) On day one of the Biden administration, they should be withdrawn or at least halted until they can be assessed.

That action will start to turn the clock back. That action, together with the termination, on day one, of the top leadership at SSA will provide a powerful signal to Social Security advocates and seniors that the Biden administration is serious about carrying through on its mission to protect and expand Social Security.

In addition, there are steps that the Administration should take administratively to increase economic security. Republican-appointed Commissioners, encouraged by Republican-controlled Congresses, have focused myopically on potential fraud to the detriment of providing Americans

with the benefits to which they are entitled. Particularly, SSI is burdened with large numbers of complicated rules that increase the cost of administration and are punitive, without any measurable gain to program integrity.

Even before legislation is enacted or even introduced in Congress, the Biden administration should instruct the new leadership at SSA to undertake a thorough review of rules to see to what extent the goals of simplification and expansion can be accomplished administratively. Among many other rules, SSA should analyze what can be done regarding the in-kind support and maintenance provisions and the use of funds in dedicated accounts, both of which are punitive in their design.

In addition, President Biden should instruct SSA to cease garnishing Social Security benefits, while it seeks legislation to end garnishment by the federal government and reviews, more generally, the broader issue of which garnishment is a part.

This harmful practice can and should be halted while the Administration reviews the issue and seeks corrective legislation. The review should be part of a larger examination of inappropriate efforts to recover payments which have been made sometimes decades earlier, and turn out, due to an error of the government, to be too large. These unwarranted practices not only weaken economic security; they undermine public support for the government which is intended to protect the public, not act in an adversarial role to those eligible for legislated benefits.

## **RESTORING CONFIDENCE IN SOCIAL SECURITY'S FUTURE**

As its name implies, Social Security is intended to provide more than cash benefits. It is intended to provide the intangible benefit of security, peace of mind that in the event of disability, death, or old age, workers and their families will have some guaranteed economic support and not be left destitute. Nevertheless, polls reveal that the American people, particularly younger Americans, lack confidence that Social Security will be there to provide them that guaranteed security in the future.

The very acts of the Biden administration to remove the Trump administration's political leadership at SSA and to champion legislation that expands and doesn't cut Social Security, while restoring its long-range financial stability, will begin to build back confidence that the program will be around for today's youngest workers.

In addition, SSA – under new leadership – should give greater attention to increasing public confidence through its outward-facing communications, presswork and publications. Promoting public confidence and understanding is particularly important in this era where there is so much misinformation about the program circulating in the media and public discourse. Indeed, SSA employees—at every level—should be encouraged and empowered to participate in this effort at education. Employee orientations, trainings, workshops and internal communications should reinforce and encourage the importance of advancing public understanding of Social Security.

Public confidence would be substantially increased by full restoration of the annual mailing of the Social Security statement, as the law requires. All covered workers should receive the statement in paper annually, unless they expressly opt out. By informing workers of their contributions withheld, their covered earnings credited, and their anticipated benefits, without their having to

take affirmative steps to obtain copies, the statements are a valuable tool in ensuring that wages are recorded accurately and in helping with retirement planning. American workers deserve easy access to a full accounting of their earnings records and the benefits they are earning.

In addition, the new leadership at SSA should generate age-specific mailings. For example, SSA should mail information on Medicare enrollment, which explains enrollment rules and the potential consequences of delayed enrollment. At the birth and adoption of children, SSA should inform new parents that their Social Security contributions may have earned important life and disability protections for their new child and their family, and could earn even greater protections in the future. SSA could automatically include a statement for new parents at the point when a Social Security card is issued to a child. Another statement could be provided when workers enter the work force and pay Social Security and Medicare contributions for the first time.

In addition, new leadership at SSA should restore the capacity of the local field offices to reach out to the public. In the past, SSA had much more reach into local communities, establishing relationships across a broad set of local governmental, business and civic organizations including the media, state agencies, non-profits, and religious and educational institutions. Moreover, the local offices' outreach efforts were backed up by the national communications office, the professional communications officer in each of the 10 regional SSA offices, and at any one time by between 120 and 150 public affairs specialists across the country whose responsibilities spanned multiple offices and domains.

Broad-based outreach and communication is of particular concern to groups that have historically been disadvantaged, including ethnic communities, persons with disabilities who may need special information, and low-income elderly and disabled beneficiaries who are or may be eligible for SSI.

## **PROTECTING THE INDEPENDENCE OF THE OFFICE OF THE ACTUARY**

Successfully expanding Social Security and restoring confidence in its future depends on new leadership that recognizes and values an independent, nonpartisan Office of the Chief Actuary. Historically, both Democratic and Republican policymakers have trusted and relied on the Office's analyses, viewing them as good-faith estimates made only with an eye to accuracy. In recent years, however, Congress and outside groups that support cuts to Social Security have sought to undermine the Office of the Chief Actuary. (In sports, it is known as "working the refs" for advantage.)

This interference occurred most recently after Democrats appropriately asked the Chief Actuary to analyze the implications of President Trump's promise, if re-elected, to "terminate" Social Security's dedicated contributions. Presumably because a number of Democrats, including the Biden-Harris campaign, used the Chief Actuary's analysis to reveal the implications of the Trump promise, the top Republicans on the authorizing committees sent what appear to be harassing letters to the Chief Actuary. While no efforts to muzzle the Office of the Actuary were taken, it is imperative that the new Administration, with its new Commissioner, step in if the harassment continues or escalates.

## **SETTING A FORWARD-LOOKING LEGISLATIVE AND RESEARCH AGENDA**

New leadership is essential, as well, to restore the role of SSA in studying and making recommendations to Congress, regarding next steps to achieve economic security for everyone. That was a top priority of the first commissioner, Arthur J. Altmeyer, as well as the longest-serving commissioner, Robert M. Ball. New leadership is essential to restore that top priority.

Research conducted by SSA is crucial to the long-range success of our Social Security system and, indeed, to the economic security of Americans more generally. Historically, the research included the thorough analysis of areas where Americans remain economically insecure and the careful development of legislative and administrative approaches to address those insecurities. SSA should undertake that research today as well.

Because the Social Security Administration has such broad reach, it has access to important data it and other agencies of the government collect. Historically, this data has been analyzed and made available to outside researchers and policymakers for their work. Moreover, the efforts were enhanced by study of systems around the world and those implemented by states and localities.

We urge that the new Administration treat research designed to shed light on the economic status of Americans and to analyze social insurance approaches to improving economic security as a priority. It is important to note that while there is a place for research regarding the ability of those with disabilities to return to work, it should be clearly understood that, by statutory definition, workers cannot receive disability benefits if they can support themselves through work. Therefore, research with respect to disability should not be so limited, but much broader in the questions asked.

How Social Security and SSI affect different demographic groups and economic levels is always important, but it is especially so given the disparate impact of the current pandemic, the resulting economic collapse, and the heightened concern about systemic racism. The new SSA leadership should have the agency resume the collection and reporting of racial and ethnic data. In addition to making the collected racial and ethnic data public, SSA should carefully analyze it to assess the economic security of various racial and ethnic groups, as well as other important demographic segments of the population.

For specific examples of what this more robust research agenda will include, Appendix D sets forth various areas of interest where added research would be extremely valuable to policymakers, researchers, and others.

# **ACTIONS TO BE TAKEN ON DAY ONE AND WITHIN THE FIRST ONE HUNDRED DAYS**

## **Day One**

On January 20, 2021, the newly inaugurated President Biden should:

- Give Commissioner Andrew Saul the choice to immediately resign or be fired and require all other SSA political Schedule C appointees, including Deputy Commissioner David Black, to vacate their offices that day. (The reason for the different treatment of Commissioner Saul is explained in detail on page 4 of this report.)
- Withdraw or at least freeze and set in motion the withdrawal of the destructive Trump regulations and other policies listed in Appendix C of this report, together with all other regulations, sub-regulatory rules, and executive orders identified by the Biden-Harris SSA agency transition team.
- Instruct SSA and IRS to work together to ensure that every penny of emergency payments provided under the CARES Act has been distributed to all Social Security beneficiaries and SSI recipients, including the benefits for dependents.
- Using the same Internal Revenue Code [section 7508A](#) authority relied on by the Trump administration, extend the number of months over which the deferred Social Security contributions must be repaid, so that the amounts withheld are much less burdensome.
- In response to the unusually low numbers of SSI claims filed in recent months, instruct SSA to immediately develop and implement a robust strategy to assess, reach out, and assist vulnerable communities with the goal of increasing the applicant pool and subsequent awards.
- Reinstate the suspension, while the pandemic is still raging, of actions regarding overpayments and instruct SSA to review the whole issue of overpayments, more generally, with the goal of focusing less on overpayments and more on improper payments, which includes underpayments..
- Instruct SSA to, in close consultation with union representatives and CDC, develop a plan to refurbish field offices so, when they are reopened, they will be safe, and “green.” The plan should prioritize the opening of offices that serve communities of color, low-income areas, and other neighborhoods more likely to require in-person services. All re-opened offices should be fully accessible to those with disabilities and employ staff that reflects the local community.
- Instruct SSA to review its policies with the goal of getting more money to beneficiaries and recipients and – therefore – into the economy, during the current crisis. As just one example, the rules regarding the use of dedicated accounts should be liberalized and

simplified, so that low-income families can more easily and readily have access to the funds contained in them. As related matters, instruct SSA to undertake a thorough review of rules to see to what extent expanding and simplifying SSI can be accomplished administratively; and to cease garnishing Social Security benefits, while it seeks legislation to end garnishment by the federal government and reviews, more generally, the broader issue of which garnishment is a part.

- Instruct SSA to comply with the [June 25, 2020 letter](#) from Representatives John Larson (D-CT) and Danny Davis (D-IL), requesting that SSA seek the advice of the National Academies of Sciences, Engineering and Medicine on how best to evaluate the long-term impact of COVID-19 on survivors' ability to work.
- Instruct OMB to revoke its erroneous interpretation of Section 13301(a) of the Budget Enforcement Act of 1990. That statute unambiguously provides that Social Security's administrative budget is not intended to compete with other agencies for its administrative funding in the annual appropriations process.

### **First One Hundred Days:**

In its first one hundred days, the Biden administration should:

- Work with the Social Security champions in Congress to develop legislation, ideally along the lines of the specifications set forth in Appendix B. Once the legislation is agreed upon, work with Democrats in Congress to develop a coordinated, well-choreographed plan of announcement, hearings, town hall meetings, and other steps to garner public support in considering the legislation through the normal legislative process.
- Present a budget that reflects the unambiguous language of Section 13301(a) of the Budget Enforcement Act of 1990, reflects the budgetary impact of its plan to expand Social Security, Medicare, and SSI, ideally as outlined in Appendix B, and provides adequate funding for SSA to provide the first-class service that was a hallmark of its history.
- Instruct SSA to restore its practice of collecting and reporting data along racial, ethnic, and other demographic lines. More generally, instruct SSA to undertake research that sheds light on the economic status of Americans and analyzes social insurance approaches to improving economic security, as it once did, and as highlighted on page 20 and in Appendix D.

## **APPENDIX A: MORE DETAILED DISCUSSION OF ADDITIONAL ACTIONS FOR FIRST-CLASS SERVICE**

### **Helping People Understand Their Benefits and Their Rights**

Social Security is unique in providing secure, lifetime, wage-related, inflation-adjusted joint and survivor retirement annuities. Waiting to claim benefits can have an enormous impact on the security of the very old. Some may have the resources to hire financial advisers, but that advice may be misinformed. More fundamentally, Americans should not be required to pay private financial advisers for information they should be able to get readily from their government.

For millions of Americans, deciding when to start claiming Social Security benefits is one of the most important financial decisions they will make in their lives. While applying for retirement benefits online is convenient for many applicants, the “it’s so easy” and “it takes only 15 minutes” messages don’t convey how much is at stake. New leadership is essential to ensure that SSA is the most important and trusted source of information about Social Security benefits.

The same is true for claiming Medicare. Age 65 is the earliest age of eligibility for Medicare. The consequences of enrollment missteps, particularly inappropriately delaying Medicare Part B, can be significant—leading to a lifetime of higher premiums, gaps in coverage, higher out-of-pocket health care costs, and delayed access to needed health care services.

People applying for Social Security and Medicare need to understand their benefit-claiming options and the long-term consequences of their decision. Similarly, those applying for or inquiring about SSI need to be able to receive professional advice from a well-trained SSA employee if they are to successfully navigate the byzantine rules of the SSI program. (Those byzantine rules should be simplified through administrative action, to the extent they can, and through legislation to the extent that is necessary. In addition, punitive regulations and sub-regulatory rules issued by the Trump administration, and briefly described below, should be reversed.)

To ensure that SSA is doing a first-class job in serving the American people, the new Commissioner should: issue a written policy informing employees that high-quality, informed service is the most important job at SSA and that job performance will be measured on this basis. In addition, the new leadership should: carefully review and revise the online application processes to ensure that applicants are fully informed about and have considered the consequences of their decisions, not only on themselves, but on surviving spouses, where relevant. Moreover, SSA should affirmatively reach out and educate, as discussed next.

### **Educating and Reaching Out to the Public**

World-class service depends on highly-trained staff that not only serves those who visit field offices or call, but reaches out to the community in a proactive way. In addition to informing the public about claiming the Social Security benefits that they have earned, including how the decision about claiming may affect the amount of income that they, and possibly a surviving spouse, will have for the rest of their lives, SSA should proactively inform about Medicare.

Working with the Centers for Medicare and Medicaid Services, the Department of Labor, and other relevant federal agencies, SSA should develop and disseminate outreach and educational tools as well as written notification to individuals who are nearing age 65. This information should clearly and comprehensively explain Medicare enrollment considerations for people with varying types of health insurance, including employer-sponsored group health plans, COBRA insurance, marketplace plans, retiree coverage, and so forth.

In addition, those who apply for early retirement benefits should be informed that they can also apply for disability insurance benefits simultaneously, if they think they may qualify. They should be told that they can start to receive their retirement benefits immediately; if they are awarded disability insurance benefits, they will simply be switched and receive the larger amount both going forward and to reimburse them retroactively for the underpayments they have been receiving.

It is especially important for SSA to educate and reach out to those in poverty, those who are homeless and those who are incarcerated and soon to be released. Estimates of participation rates in the SSI program reveal that a large number of the nation's most vulnerable older people and people with disabilities are not receiving the SSI benefits to which they may be eligible. A few of the many steps SSA should take under new leadership to reach the most vulnerable among us include:

- Inform everyone who applies for Social Security disability and old-age insurance benefits about SSI;
- Send notices at age 65 to everyone who files for Social Security early retirement benefits before age 65 and has a low enough benefit to potentially qualify for SSI, that they now meet the age requirement for SSI;
- Send reminders about possible SSI eligibility periodically (e.g., once every five years with the COLA announcement) to beneficiaries with low Social Security benefits;
- Designate specialized field office employees to reach out to the homeless in the communities they serve, as well as those advocating for the homeless, to ensure that those who are eligible for benefits are receiving them;
- Make greater use of an SSA prison pre-release program designed to help prevent homelessness and recidivism. Under the program, SSI applications can be taken several months before an individual's anticipated release.

It is concerning that the number of disability claims has declined drastically in recent years and no one seems to have a convincing explanation for the decline. The Biden administration should investigate whether those who would qualify have somehow been discouraged from applying and, again, ensure that people who are eligible and want to receive them are applying.

As part of its mission, SSA should particularly focus on ensuring that people with disabilities and those with limited English proficiency are able to access all programs and services administered by SSA. To ensure that accessibility, new leadership at SSA should make this a priority, including, among other actions:



## **Access for People with Disabilities**

- Ensuring that all field offices, once they are reopened, are fully accessible and in locations that people with disabilities can readily reach with public transportation;
- Ensuring that accessible options such as home visits exist for people with disabilities who are unable to visit a field office in person;
- Ensuring that all aspects of SSA's website, electronic communications, and IT are fully accessible;
- Providing, when needed, help understanding and navigating SSA's application, appeals, and review processes, such as assistance to understand and complete forms and to gather necessary documentation;
- Ensuring that there is effective communication, including for people with hearing impairments and others who communicate non-verbally or in alternative ways.

## **Access for Limited English Proficient (LEP) Individuals**

In order to ensure that LEP individuals have meaningful access to the benefits to which they may be eligible, it is essential that SSA communicate with individuals in a language in which they are proficient and that up-to-date informational materials on benefits be provided in a variety of different languages. This is especially important in the SSI program, where over a third of people applying for benefits on the basis of age are LEP and where questions regarding eligibility or the correct amount of benefits are far more likely to arise because of the program's complex rules. To achieve this priority, the new leadership should, among other steps:

- Develop and implement a plan for translating all notices into Spanish and the other major languages spoken by those receiving benefits from SSA-administered programs, starting with SSI;
- Ensure that SSA's policy on interpreters is uniformly applied;
- Make compliance with the interpreter policy part of monitoring the performance of state DDSs;
- Make a concerted effort to hire bilingual staff for assignment to field offices;
- Make informational publications in different languages, including English,<sup>3</sup> available and visible to people who visit local offices;
- Develop and implement a plan for regularly distributing print versions of these informational publications to community groups serving targeted language populations.

## **Ensuring Timely and Accurate Initial Disability Determinations, Hearings, And Appeals**

The new leadership should expand SSA's efforts to improve the disability claims process, while ensuring that nothing infringes claimants' due process rights. As SSA expands the use of technology, the new leadership must recognize that not all Americans have internet access and those who do may prefer not to conduct their financial affairs online. Ensuring full and adequate access to field

---

<sup>3</sup> SSA should make informational publications available and visible to people who visit local offices. The time that people spend waiting in a SSA office should be seen as an educational opportunity.

offices and to convenient, prompt help over the phone are crucial to restoring world-class service. This includes providing timely in-person hearings, rather than video hearings, if that is the claimant's preference.

### **Initial Determinations**

Establishing eligibility for disability benefits is not a rubber-stamp process. The key to appropriate disability determinations is full and adequate development of the relevant evidence. Inadequate case development at the initial and reconsideration levels leads to unnecessary appeals and longer processing times at the hearing level. Improvements at the front end of the process can significantly reduce the backlog and delays later in the appeals process.

SSA should prioritize improving the development of evidence earlier in the claims process to minimize denials at the initial and reconsideration levels based on incomplete records. To achieve that goal, SSA should provide more assistance to claimants at the initial point of service contact.

Importantly, The new leadership should improve the speed and accuracy of initial determinations by, among other steps:

- Expanding the acceleration of decisions for people whose conditions are the most severe and/or terminal;
- Providing more assistance to claimants at the application level, both explaining to the claimant what evidence is important and necessary, and also helping to complete the application, so that all impairments and sources of information are identified, including non-physician and other professional sources;
- Providing an option for individuals to complete an online application for SSI, as a supplement (not a replacement) to applying in person or over the phone;
- Informing applicants that they can hire representatives on a contingency fee basis at the initial claim stage;
- Increasing the allowable amount of those contingent fees;
- Increasing reimbursement rates for providers responding to requests for medical records and reports;
- Allowing electronic access to claimants' files and the ability to submit evidence electronically at the initial and reconsideration levels and for Continuing Disability Reviews;
- Improving and expedite processing of Appointment of Representative forms to ensure that the people whom claimants choose to interact with SSA on their behalf are able to do so in a timely and effective manner.

### **Appeals Process**

The commitment to due process must always be the number one priority. In that regard, independent ALJs are crucial to both the appearance and reality of due process. ALJs are what ensure full and fair hearings before an impartial and independent adjudicator. Consequently, it is imperative that ALJs remain the adjudicators for the hearing requirement in the Social Security Act.

It is particularly important that the new Commissioner focus attention on the functioning of the

process for appealing proposed SSI suspensions and benefit reductions. Everyone subject to this process (a) has previously been determined to be eligible for SSI, (b) is relying on a subsistence-level SSI benefit for their basic necessities and (c) is threatened with the imminent loss of all or part of that benefit. In addition, very few people faced with a benefit suspension or reduction can find an attorney or other advocate to represent them since, unlike disability determination appeals, there is no prospect of a fee for representation. This makes it all the more important that the process work smoothly and fairly since, for the most part, there is no outside representative to monitor it.

Reducing the risk of an improper payment is essential to removing barriers for people with disabilities who are working or attempting to work. When beneficiaries faithfully notify SSA of earnings or other changes that may reduce their benefit payment amounts, it may be months or years before SSA processes these reports and sends an overpayment notice, demanding repayment of sometimes tens of thousands of dollars of accrued overpayments. It is shocking to those who receive these notices, when they reasonably assumed that SSA had processed the information they submitted in a timely fashion. And it is challenging, if not impossible, for someone subsisting on benefits alone to repay the overpayments. Many individuals with disabilities are wary of attempting a return to work out of fear that this may give rise to an overpayment, resulting in a loss of economic stability and health care coverage upon which they rely.

Those who follow the rules should not be penalized. SSA should adopt an “estoppel” provision that gives SSA four months to adjust benefits and notify beneficiaries of existing overpayments. For beneficiaries who have followed the law by properly reporting their earnings, if SSA fails to act within the four months to adjust benefits and notify the beneficiary, SSA would be prohibited from seeking the repayment of overpayments. Further, SSA field office staff should have the same incentives to process earnings reports as they do to complete other work.

These changes, in addition to the other recommendations in this report would result in a system that is fairer and would likely significantly reduce administrative expenses, while better serving the public. The Biden administration should replace SSA’s current political leadership and instruct the new leadership to follow these recommendations to ensure first-class service.

## **APPENDIX B: SPECIFICATIONS OF POTENTIAL EXPANSION LEGISLATION**

President-elect Biden ran on a promise to expand Social Security, SSI, and Medicare. They also promised no additional taxes on anyone earning less than \$400,000. The Administration should champion legislation which meets the following specifications. It includes all their promises, while restoring Social Security and Medicare to long-range actuarial balance.

President-elect Biden also promised to increase Supplemental Security Income, which is a companion program to Social Security. SSI does not have a powerful constituency, so the reforms should not be particularly highlighted, but they nevertheless absolutely should be included in legislation that addresses Social Security. (The provisions that were in the Biden campaign plan are marked with an asterisk; the ones that were in the Social Security Expansion Act, which Vice President-elect Harris cosponsored as a Senator, are marked with a plus.)

### **PART ONE: MEDICARE**

- **Lower the earliest age of eligibility to age 60\***
- **Add hearing, vision and dental benefits\*** (See [S.1423 - Medicare and Medicaid Dental, Vision, and Hearing Benefit Act of 2019](#); [H.R.1393 - Medicare Dental, Vision, and Hearing Benefit Act of 2019](#))
- **Allow Medicare to negotiate for lower drug prices\***
- **Dedicate one or more progressive sources of revenue that affect only the wealthiest and/or large corporations to Medicare's Part A (Hospital Insurance).** (Numerous sources exist. Indeed, dedicating special interest tax expenditures, such as the subsidies on fossil fuel, which President-elect Biden has promised to end, are easier to enact as a pay-for in legislation that expands Social Security and Medicare.)
- **Authorize the use of general revenue if Medicare Part A ever has insufficient revenue to pay all costs.** (A similar guarantee was enacted in 1943 with respect to Social Security, when Congress postponed scheduled increases in FICA. The provision was repealed in 1950.) Once enacted, Medicare trustees' reports will never again project deficits.

While the use of dedicated progressive revenue, together with the guarantee of general revenue if there is ever a shortfall may require, under the current rules of the House of Representatives, that the Ways and Means Committee share jurisdiction with the Energy and Commerce Committee, that should not stand in the way of legislation that is wise policy and winning politics. Perhaps the rules can be modified in a way that keeps jurisdiction solely with the Ways and Means Committee. If not, the ability to expand Social Security and Medicare, while restoring both programs to balance without widespread taxes, should be important enough to overcome the concerns about Committee jurisdictions

## **PART 2: SOCIAL SECURITY**

- **Increase benefits across the board+**
- **Switch to the Consumer Price Index for the Elderly\*+**
- **Update the so-called special minimum benefit\*+**
- **Repeal WEP/ GPO\***
- **Add a caregiver credit\***
- **Increase the benefits of certain widowed beneficiaries\***
- **Apply the OASDI FICA rate on covered earnings over \$400,000 and credit for benefit purposes the additional earnings on which FICA contributions are made.** (President-elect Biden proposed this, but without crediting the additional earnings. The failure to credit the additional earnings on which contributions are made breaks a fundamental principle of Social Security, in place for its entire history -- that the more that workers contribute, the higher their earned benefits. Consequently, we propose that the additional earnings on which contributions are made are credited in the calculation of benefits. The [Social Security 2100 Act](#), which is sponsored by Representative John Larson (D-CT),, Chairman of the Social Security Subcommittee, and has 208 House cosponsors in the current Congress, includes the modified provision we recommend.
- **Reallocate, from Medicare to Social Security, as much of the 2.9 percent Federal Insurance Contributions Act payments as is necessary to restore Social Security to 75-year actuarial balance** (Because Medicare Part A will never again project a deficit, thanks to the general revenue guarantee, the reallocation can be made without harming either Social Security or Medicare. Rather, these provisions will cause both the next Medicare Trustees Report and the next Social Security Trustees Report to state that both programs are in long-range actuarial balance for the first time in decades..

## **PART 3: SUPPLEMENTAL SECURITY INCOME**

- **Increase the federal maximum benefit to 100 percent of the federal poverty level\***
- **Increase the benefits of married couples to twice the benefit of single individuals\***
- **Eliminate so-called “in-kind support and maintenance” benefit reductions\***
- **Increase the assets limits for 2021 to \$4,289 for individuals and to \$8,578 for married couples, and index them for inflation annually and automatically thereafter\***
- **Increase the general income disregard from the current \$20 to \$125 per month.**
- **Increase the earned income disregard from the current \$65 to \$400 per month.**
- **Repeal the transfer penalty**
- **Eliminate dedicated accounts**
- **Hold SSI recipients harmless from the Social Security increases**

## **APPENDIX C: REVERSING DESTRUCTIVE TRUMP ADMINISTRATION POLICIES**

Both as an illustration of why the Biden administration should terminate the political leadership at SSA, as well as a reason that leadership should be removed, are the many destructive regulations and rules they have promulgated since taking office. Indeed, a fair number were rushed out the door in just the last few weeks.

In addition, there are destructive presidential executive orders that affect all civil service employees, including SSA employees, and should be revoked on day one. Similarly, there is at least one destructive executive order – excepting ALJs from the competitive civil service -- that threatens the independence of administrative law judges, most of whom work at SSA.

While ALJs work in many agencies, the overwhelming number of ALJs work at SSA. Consequently, that and other destructive orders and regulations have the effect, and likely the intent, of undermining the due process rights of those receiving Social Security and/or SSI. Those too should be revoked on day one.

If the destructive regulations are proposed, they can and should be withdrawn. If, they have been made final (and that is happening in this post-election period), the process is, of course, more complicated. Nevertheless, the new leadership at SSA should be asked to not enforce any SSA regulations adopted during the prior administration, if possible, while a thorough review of them is undertaken with additional input from the public.

Among the government-wide executive orders that are anti-civil service and anti-union executive orders are Executive Order #13836, which undermined collectively-bargaining agreements; Executive Order #13837, which undermines unions' ability to represent workers; Executive Order #13839, which makes it easier to fire civil servants, generally; Executive Order #13843, which seeks to control the independence of administrative law judges, and Executive Order #13957, which removes the protections of, and allows to be fired at will, civil servants involved in policy (which could be broadly interpreted as including the vast majority of federal employees).

Among the destructive SSA regulations, which should also be withdrawn or, at least, halted until they can be reversed, are the following. (Note the dates to see which ones have been acted on, post election.)

- Final Rule, “Removing Inability to Communicate in English as an Education Category” ([85 Fed. Reg. 10586](#); effective April 27, 2020)
- Final Rule, “Hearings Held by Administrative Appeals Judges of the Appeals Council” ([85 Fed. Reg. 73138](#); effective Dec. 16, 2020)
- Expected Final Rule, “Revised Medical Criteria for Evaluating Musculoskeletal Disorders” ([83 Fed. Reg. 20646](#); OMB regulatory review [concluded Nov. 10, 2020](#))

- Notice of Proposed Rulemaking, “Rules Regarding the Frequency and Notice of Continuing Disability Reviews” ([84 Fed. Reg. 63588](#); SSA sent the final rule [to OMB for review Nov. 10, 2020](#))
- Pre-rule, “Revising Evaluation of Vocational Factors in the Disability Determination Process”
- Pre-rule, “Minimum Monthly Withholding Amount for Recovery of Title II Benefit Overpayments”

In addition to terminating the leadership at SSA and reversing or starting the process of reversing the various executive actions identified here, the new SSA leadership should undertake a thorough review of all regulations and sub-regulatory actions that have the effect of making it more difficult to receive benefits.

## **APPENDIX D: FORWARD-LOOKING SSA RESEARCH AGENDA TO INCREASE ECONOMIC SECURITY**

SSA historically has researched the economic challenges facing seniors, people with disabilities, survivors and working families, among others, to assist policymakers in their exploration of how Social Security could be expanded to increase economic security. Much of that work delved into (and should delve into) the differential impact of trends and reforms on various demographic and economic groups, including women, children, veterans, divorced spouses, people of color, and LGBTQ+, among others. Consistent with that history, the following are some examples of areas where added research would be extremely helpful to policymakers, researchers, and others.

- Effects of slow and unequal wage growth, and rising inequality more generally, on Social Security's finances and Americans' retirement prospects;
- Progressive revenue sources to supplement Social Security's current revenue sources, of which only 3 percent is currently from a progressive source;
- How changes in the private retirement landscape, including the shift from defined benefit pensions to defined contribution plans, affect the need for Social Security benefits
- The preparedness of those approaching retirement, particularly in light of the rapid decline of private-sector defined benefit pension plans and the loss of housing equity and other wealth as a result of COVID and the current economic collapse, as well as the so-called Great Recession;
- How demographic and economic changes will affect the ability of future workers to retire;
- Ensuring that workers in the so-called "gig economy" and others labeled independent contractors are correctly labeled and are achieving insured status;
- SSI and the impact on Americans' economic security as a result of the failure of key eligibility criteria to be updated to keep pace with the general economy, including the earned income and general income disregards not having been increased since the program's inception in 1972, and the resource limit not having been updated since 1989;
- Reporting burdens on SSI recipients and SSA, as well as possible ways to simplify those burdens;
- Benefits provided internationally, and how some of those benefits, such as children's allowances, sick pay and parental leave might be incorporated into the US Social Security system and financed fairly, consistent with American values;
- The quality of life of beneficiaries, including on what beneficiaries spend their benefits;
- What happens to those who have applied for disability benefits but not awarded them;



- What happens to those ultimately awarded benefits (or who would be, if they did not die) during the period they are waiting for a final determination, including how many people die during the waiting period and how many become homeless;
- What happens to young adult recipients of SSI childhood benefits who lose benefits at age 18 as part of an age-18 redetermination;
- How those awarded disability benefits cope during the two-year waiting period to become eligible for Medicare;
- Fragmentation of services (i.e., across agencies that serve people with disabilities— education, vocational education/ rehabilitation, healthcare, etc.);
- Whether there are ways to streamline with the Veterans Administration the ability of veterans to receive benefits from several federal programs.
- The ability of so-called long haulers – those who survive COVID infections but have long-lasting symptoms – to return to work.

## **APPENDIX E: SUMMARY OF RECOMMENDATIONS**

### **INSTALLING NEW LEADERSHIP AT SSA IS ESSENTIAL**

- On day one, President Biden should give Commissioner Andrew Saul the choice to immediately resign or be fired and require all other SSA political Schedule C appointees, including Deputy Commissioner David Black, to vacate their offices that day. (The reason for the different treatment of Commissioner Saul is explained in detail on page 4 of this report.)
- The Biden-named Commissioner should be included in Cabinet meetings and serve on the Domestic Policy Council, which, among many other reasons, would demonstrate President Biden’s strong commitment to Social Security.

### **IMPROVING ACCESS AND CUSTOMER SERVICE DURING AND POST-COVID**

- The Biden administration should use the necessity of refurbishing the offices for safety as an opportunity to develop and showcase offices that will be welcoming, safe, and “green.” All offices should meet or exceed CDC safety guidelines, including the use of masks and other personal protective equipment, as well as the ability to maintain social distance.
- Opening offices serving communities of color, low-income areas, and other neighborhoods more likely to require in-person services should be a priority. All offices should be fully accessible to those with disabilities and employ staff that reflects the local community.
- The Biden administration should ensure that every penny of emergency payments provided under the CARES Act is received by all Social Security beneficiaries and SSI recipients.
- Through executive action, President Biden should extend the number of months over which the deferred contributions from Donald Trump’s FICA deferral must be repaid, so that the amounts withheld are much less burdensome.
- President Biden should work to ensure that Congress addresses the so-called COVID notch, and does so in such a way that no one’s benefits are reduced.
- SSA should review its policies with the goal of getting more money to beneficiaries and recipients, which, among other advantages will get more money into the economy, during the current crisis.

### **ADDITIONAL ACTIONS TO PROVIDE THE FIRST-CLASS SERVICE AMERICANS HAVE PURCHASED AND DESERVE**

- The new SSA commissioner should prepare and issue a written policy that provides SSA employees with the clear understanding that high-quality, informed service is the most important job at SSA – and that job performance will be measured on this basis.
- President Biden should instruct OMB to reverse its misinterpretation of, and present his budgets in accordance with, Section 13301(a) of the Budget Enforcement Act of 1990, which unambiguously states that SSA’s administrative budget should not have to compete with other agencies for its administrative funding in the annual appropriations process, and those expenditures should not be subject to arbitrary, across-the-board, highly restrictive ceilings on domestic discretionary programs.
- For other recommendations about first class service delivery, please see Appendix A.

## **EXPANDING ECONOMIC SECURITY AND SETTING A FORWARD-LOOKING RESEARCH AGENDA**

- The President should propose and vocally champion legislation consistent with his campaign promises, ideally meeting the specifications outlined in Appendix B.
- The Biden administration should withdraw or, at least freeze and assess, with the idea of reversing all harmful executive orders, regulations, and sub-regulatory rules, some of which are identified in Appendix C.
- SSA should issue new regulations and take other steps to ensure that working families can more easily access the benefits they have earned and, once receiving benefits, that they are not subject to garnishment and – in fact – have their student loans cancelled, without tax liability. As a first step, the President and Commissioner should declare a moratorium on the garnishment of Social Security benefits by the federal government while the issue is examined and legislation is developed.
- SSA should fully restore the annual mailing of the Social Security Statement; and develop age-specific mailings.
- The Biden administration should protect the Office of the Chief Actuary to ensure its continued independence. It should take every step it can to ensure that Congress recognizes its expertise.
- SSA should develop a robust research agenda as discussed in this section of the report and in Appendix D.

For other recommendations, please see those specified in the recommended actions to be taken on day one and within the first one hundred days of the new Administration. (See pages 21-22.)