

# UNITY

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Warren Fretwell, Editor

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## The President's Message

# No Confidence in Social Security Commissioner

By Witold Skwierczynski

I have worked for the Social Security Administration for 33 years. For most of those years I've been a union official and for the past 22 years I've been the President of AFGE Council 220.

I've seen SSA commissioners come and go. Jo Anne Barnhart is one I'd like to see go...soon!

We all expected politics to be removed from SSA's operations when it became an independent agency in 1995. But, today the agency is more politically oriented than it has ever been.

Presidential appointees have traveled the country pushing the White House privatization agenda on the tax-payers' dime. And where was Jo Anne Barnhart?

New Medicare Part D and other work loads have piled up with some reportedly resulting in billion-dollar payment errors. And where is Jo Anne Barnhart?

The retirement wave is washing our experienced workers out of their offices. And where is Jo Anne Barnhart?

Labor relations is at its nadir; worse than the Dorcas Hardy years. And where is Jo Anne Barnhart?

OPM satisfaction surveys show SSA is in the bottom third of federal agencies, while more and more Field Operations workers complain of inordinate stress and inability to address their work.

Employees can't wait to retire and many count the days till they can leave "this awful place." And where is Jo Anne Barnhart?

Instead of confronting these problems, Commissioner Barnhart has actually made them worse.

She and her staff have not been successful in securing the additional personnel needed at all levels, but especially in the Field, to enable employees to process current and anticipated work loads. In fact, rather than complain to Congress about the insufficiency of funding for personnel,

Barnhart's staff thanked Capitol Hill for giving SSA the resources to do its work, despite clear evidence and personal admissions that the opposite is true!

Barnhart has consistently refused to meet with AFGE and was responsible for the anti-union and anti-employee contract, including signifi-



Skwierczynski

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## Convention Call & Elections Notice

You are hereby notified in compliance with the AFGE Council 220 constitution, that the 2006 National Convention will be held at the Hyatt Regency Atlanta, 265 Peachtree Street, NW, Atlanta, Georgia 30303-1234, on Friday, August 4 — Saturday, August 5, 2006 (time to be determined).

Nominations and elections for all executive office positions will be held at the convention. These positions include: President, Executive Vice President, 1st Vice President, 2nd Vice President, 3rd Vice President, Secretary and Treasurer. Nominations will be accepted from the floor.

Qualifications for office are: be a member in good standing of this Council; be a member of one year of an AFGE Local, immediately preceding the closing of the nomination process; not be a member of any labor organization not affiliated with the AFL-CIO. The term of office is 3 years ending with the installation of officers following the regularly scheduled elections in 2009. A second nomination is not required. Self-nominations are permissible.

Candidates must accept nomination at the meeting or, if not in attendance, submit a written acceptance to the Elections Committee Chair before the close of nominations. Placement on the ballot will be determined following nominations.

A runoff election will be held if necessary following the counting of ballots at a time and place determined by the Elections Committee.

All protests to the election must be in writing and received by the Elections Committee prior to, during, or within ten days after the election. This election is governed by the AFGE Rules of Conduct for an Election, set forth in Appendix A of the AFGE National Constitution.

Voting and delegate representation will be in accordance with Article IV and Article XII of the AFGE Council 220 Constitution.

## The Seven Signs of a Dead-End Job

**D**o the dividers of your cubicle seem to be closing in on you? Does work seem to drone on, week after week, with each day the same as the last? If so, you may be experiencing what Sander Marcus, Ph.D., a professional career counselor, calls *Career Depression Syndrome (CDS)*.

CDS, or discouragement or unhappiness in your job, could stem from high stress levels at work, job burnout or a turbulent job market. Read through this list to see if you recognize yourself in these situations and to find out if you could be at risk.

**1. Overload** When people leave your company, instead of being replaced, are the remaining employees

expected to pick up the slack and work two jobs for the price of one? Doing double-duty temporarily until the department is reorganized or a replacement is hired is fine. However, you cannot continue like this for long.

**2. Unsung Hero** Are your extra hours and “go the extra mile for the client” attitude unrecognized or unrewarded? If so, you need to start making some noise about your accomplishments. “Sometimes, you can’t just do your best,” Dr. Marcus advises. “You have to let people know you’re doing your best. Show how your actions positively impact the company.”

**3. Out of the Loop** Has a change in management left you out in the cold? Heed the signs. This could bring your

career to a screeching halt or worse, signal the end of your job. “Always keep an updated list of accomplishments ready,” Dr. Marcus says. “This information may help influence your new boss, or it makes it easier to update your resume if you think your job is in jeopardy.”

**4. Looming Dread** Do you dread getting out of bed in the morning because it means you have to face another day at work? Is your weekend cut short because Sunday is spent dreading Monday? Then it’s time to rejuvenate your interest in your job. Set some new goals for yourself and stick to attaining them.

**5. Is this All There Is?** Do you find your productivity slipping and that you lack a general interest in your job? It could mean it’s time for some career enrichment. Take courses, seminars. Find out what’s new in your industry. These are necessary moves to keep you interested and from becoming obsolete.

**6. Temper, Temper** Do you find minor challenges either at work or at home touch you off more often? Then it’s time for an attitude adjustment. “Don’t ever lose your professionalism even if you are being treated poorly,” Marcus says. It’s never a good idea to burn bridges.

**7. Alienation** Do you no longer feel like investing emotionally in your co-workers? If you start daydreaming when your co-worker tells you the funny thing her cats did last night, or if the extent of your participation in lunch room conversations is, “Uh-huh,” in your mind you may already have one foot out the door.

If you’ve answered, *Yes*, to five or more of these questions, your job is most definitely at a dead end and you are at risk for Career Depression Syndrome. It’s time to look at the big picture of where your career is headed and map out a strategy to get you where you really want to go.

· If you see yourself in three to four of the situations described, your career is definitely on cruise control. You need to revisit your career plan and get yourself back on the right path.

· If only one or two of these scenarios look familiar, you’re probably OK, but keep an eye out for the symptoms which can lead your career down a dead end.

*From CareerBuilder.com.*

## Doubts About SSA Commissioner

*(Continued from page 1)*

cant changes in employee appraisals and merit promotion procedures.

She is actively trying to remove employees from the decision-making process. Barnhart’s labor relations department won’t notify the union of work changes and refuses to negotiate with the union where required.

Her attacks on TeleService employees include restrictive leave policies and continuous phone surveillance while enforcing unrealistic limitations on conversations with clients (330-second rule).

The Special Title II workload and WC offset computations have been mismanaged resulting in \$millions in underpayments.

She has refused proper payments to employees adversely affected by Hurricanes Katrina and Rita.

Barnhart didn’t even show up at the 10-year memorial for the victims of the Murrah Federal Building bombing in which 15 SSA workers were amongst the 168 people killed—and missed the anniversary again this year.

We who work at Social Security are often the public’s first—and only—direct contact with the gov-

ernment. For many years we have struggled to provide professional service to our clients—the elderly, infirm and disabled, survivors and those getting ready to retire—and we have done so in the face of an ever-declining number of employees with ever-increasing responsibilities.

The time to recognize that the current work environment has reached an impossible level has passed and it’s time we had a commissioner who not only recognizes the problem and is willing to do something about it, but who also does not materially contribute to the agency’s woes.

However, I am afraid that Jo Anne Barnhart fails to demonstrate any commitment or interest in improving these deteriorating conditions.

I, for one, do not have any confidence in her ability to reverse the disastrous course she has helped chart for this once-proud agency. Perhaps it is time for SSA’s employees and the public to voice their no-confidence in her as well.

*Witold Skwierczynski is president of AFGC Council 220, which represents SSA Field Operations workers.*

# From Around The Nation

## *SSA Postpones Black History Month*

(Dallas, TX.) Derrick Williams, the Unit 2 Supervisor at the Grand Prairie Tele-Service Center, issued a memo to the staff earlier this year in which he postponed the celebration of Black History Month.

The TSC “has always recognized Black History Month by various activities and programs filled with music, guest speakers and delicious food,” Williams said. But, “this year, due to the increased call volume from Medicare Part D inquiries, the Black History Celebration, normally celebrated in February, will be postponed until June 21, 2006.”

Hey Derrick! The slaves were freed a long time ago! What’s next: canceling the High Holy Days or delaying Christmas?

## *AWOL Charges Resolved in Iowa*

(Davenport, IA) Lateness policies in the Davenport field office suddenly changed. Employees were told CFC meetings were mandatory and others were denied leave for inclement weather. Even those who missed IVT training meetings (that could be recorded) were facing AWOL if they were one-minute late.

A grievance was filed and Kansas Regional Vice President Cheryl Hainkel reports they were able to resolve one of the weather-related leave charges and management agreed that CFC meetings were voluntary and employees could not be docked for non-attendance.

RVP Hainkel reminds us that if management can tape the training IVT, then employees may have a good basis for filing a grievance if management makes these meetings mandatory. She also advises that if management has granted annual leave to anyone on a day when there is a “mandatory” training



IVT, then it is obviously not mandatory for everyone and grievants should raise this in their appeals.

## *Leave It To Beaver*

(Baltimore, MD) Milt Beaver is the associate commissioner for SSA’s office of labor-management and employee relations. He has been characterized as loud and obstreperous.

Union officials have also described him as “yelling” at them when they introduced agency failures to properly pay employee victims of Hurricane Katrina. “I don’t want to hear what you have to say,” Beaver said.

At another meeting, red-faced and with arms flailing, he “blew up” after the union criticized the agency over the new national contract. But, even the bellicose have their moment of truth.

Responding to the union’s criticism of the contract, Beaver admitted that SSA’s negotiators took advantage of the political situation in Washington.

Well, well, well. It’s nice to have verification of a widely held belief—that the contract between employees and management was designed to meet the needs of D.C.’s anti-employee agenda than the needs of the agency!

More recently Beaver let loose with another gem, this time claiming that Commissioner Barnhart refuses to meet with the union because of the way Council 220 treats management.

What? We file grievances and defend employees who are wrongly accused or disciplined without just cause? We ask for information or to negotiate over

work changes and tell Congress about SSA mismanagement?

That’s what a union is supposed to do and, as noted in the federal labor relations statute, it’s in the best interests of the public!

## *Hurricane Katrina Blues Continue*

(Baltimore, MD) SSA employees who were adversely affected by the ravages of Hurricane Katrina were asked to join a national conference call to be apprised of steps the agency is taking to address their problems and to ensure they are being compensated what they are due. But, some participants on the call complained about management’s attitude.

“We still haven’t gotten all the information we were promised so that we could file claims,” one employee said.

Another charged that the call was “so degrading and demeaning that you would think the money was coming from their own pockets.”

The union has a national grievance pending over SSA’s mismanagement of the relief effort and its adverse impact on agency employees.

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## Union Seeks Child Care Subsidy

Union members on the AFGE-SSA National Child Care Committee (NCCC) urged the agency to implement provisions of Public Law 107-67, Section 630 that

authorize federal agencies to improve the affordability of child care for lower income employees. The law enables SSA to use appropriated funds to provide tuition assistance to its workers for child care.

The proposal was submitted to Reginald Wells, deputy commissioner for human resources, who did not concur with the recommendation. SSA said this proposal was previously made during national contract negotiations and wasn't approved then.

Committee members responded that just because the proposal wasn't adopted during contract bargaining doesn't mean it can't be considered by the NCCC now. Since other agencies that are considerably smaller than SSA have implemented the law to benefit their workers' child care needs, there does not appear to be a good reason why SSA cannot participate, considering the agency's low overhead costs.

Some federal agencies provide \$450 per month for one child for lower-graded workers earning less than \$25,000 per year.

The assistance program was designed to encourage federal workers to use high-quality child care providers instead of those that are unlicensed and may not provide professional services.

## TSC Mobilization Underway

AFGE has initiated a program to mobilize the TeleService Centers and 800# agents over recent work changes imposed by management. The union hopes to activate more members in an effort to address continued work load and staffing problems at the 800# phone centers.

SSA has altered phone monitoring procedures and restricted leave usage ostensibly to improve service. However, the union and employees alike don't see these as positive changes. A union committee that has been put together to combat these management initiatives concludes that closer scrutiny and limited employee leave practices won't invite greater production; but adding more staff to meet the public demand will.

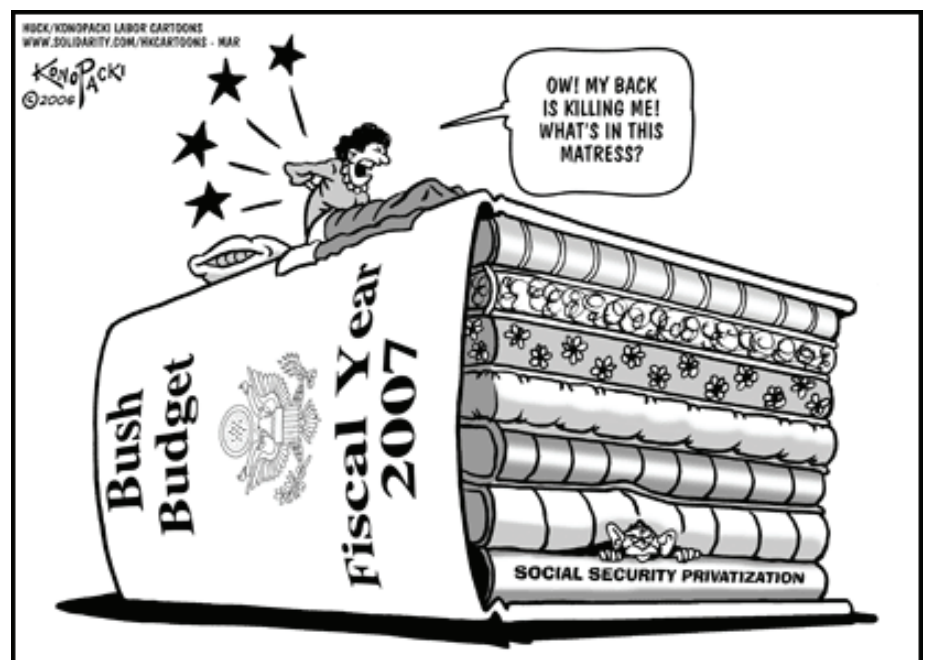
The agency reduced leave usage to only 10 percent off on peak days and 15 percent off on non-peak days, with the only exception being the day after Thanksgiving when the agency says that 30 percent can be off. Off course, the national contract requires that the agency maximize leave usage, not restrict it. The union has filed a grievance.

The phone monitoring changes were submitted for labor-management negotiations; but the parties could not agree on all issues and the remaining

disputes were sent to the Federal Service Impasses Panel. The areas of disagreement include advance notice of monitoring, definition of error, phone recordings, rationale for increased monitoring and reduction of technical assistance services for employees.

The union's focus is in making positive changes at the TeleService Centers that results in a better working environment and improved service to the public. The conclusion is that these goals won't happen until SSA admits it has a staffing problem and does something about it.

AFGE hopes to educate all affected workers and bring this message to the public.



## Part D Disaster

### Private Insurance is NOT Medicare

- Finding the best plan is confusing and time consuming
- Missed deadlines mean steep lifetime penalties
- Administrators are prohibited from negotiating for lower drug prices
- Insurers force you to use certain pharmacies
- Insurers decide which drugs you get
- Unpredictable—Insurance company can change coverage at any time; you're locked in
- Premiums vary by company & plan
- "Donut hole" abandons some seniors
- Steep overhead costs from *your* pocket mean high profits for drug & insurance companies

## REAL Rx Benefit

### Under Medicare

- Easy sign-up—just use your Medicare card
- No penalty
- Medicare negotiates with drug companies for the lowest possible prices
- You choose your pharmacy, just like you choose your doctor or hospital
- Medicare covers all necessary drugs
- Dependable—you get the drugs you need
- Lowest possible negotiated premiums and prices for everyone
- Full coverage for all seniors
- Public money for our health, not for profit

## *Activists Call Part D Costly, Confusing & Corrupt*

**T**he above fact sheet was created by Citizen Action and is part of a campaign by Americans United (AU) to focus public attention on the Medicare Part D "Disaster" and to urge Congress to offer new legislation that provides real prescription drug protections for those who most need it.

Americans United—a group that helped to defeat the White House effort to privatize Social Security last year—has turned its guns on the prescription drug plan and believes this will be a significant issue in the congressional elections later this year. It has asked for AFGE's support, especially from Council 220, which represents 25,000 SSA Field Operations workers, for its national effort called "The Campaign to Fix the Bush Part D Disaster."

Roger Hickey, co-director of the Institute for America's Future, spoke at a recent AU briefing and said, "The simplest way to reduce the cost of prescription drugs would've been to require Medicare to negotiate lower prices from drug companies like the Veterans Administration does for veterans—and by allowing seniors to choose their drug plan directly from Medicare instead of from a private insurance company. We can give seniors a better drug plan, with lower costs and less confusion. Part D was written by and for the drug companies, not seniors. It shows how corruption in Washington hurts average people."

Medicare Rights Center founder Diane Archer said the president's Part D disaster isn't helping millions of older adults and people with disabilities get affordable prescription drugs. Archer's group is the largest independent source of health care information and assistance in the country for people with Medicare.

AU's Brad Woodhouse said, "All seniors wanted was a simple, affordable and guaranteed prescription drug benefit as part of Medicare. What they got instead was a maze of plans, formularies, co-pays and deductibles that was designed to benefit drug and insurance companies, not seniors."

The AU national campaign to change Medicare Part D legislation will be visiting locations all over the United States and AFGE Council 220 encourages union advocates and members to attend their events to participate in the protest. Information about Americans United and their press releases may be obtained by visiting their website at [www.americansunitedforchange.org](http://www.americansunitedforchange.org).

## Union Seeks Refunds From TSC Fitness Center

**S**SA built a state of the art fitness center at the Albuquerque, New Mexico Tele-Service Center. It had an aerobics room, lockers and showers, stereo system and televisions, free weights and machines. There was a training instructor as well.

The Employee Activity Association contracted with MedFit to run the facility and dues were collected for employee-memberships via payroll deductions.

But, the center ran into problems when it could not find a director who would build membership nor trainers who could be relied upon to show up for work!

The center was kept open for many months without supervision, but eventually the agency locked out TSC workers. Even when the union asked to keep the lockers and showers open to allow employees who ride their bikes to work to use the facilities, management refused alleging a "liability" issue. Yet, contract guards are granted access without question.

AFGE Local 4041 President Josie Marrujo sent a letter of complaint to SSA Commissioner Jo Anne Barnhart after local management was unable to reopen the facility nor settle remaining issues.

Even though the services promised were not provided and the facility was closed down, members dues were still being deducted. It is unclear whether EAA or SSA collected the money. But, one thing is known: a check for over \$12,000 was handed over to local management who has so far refused to refund members' money.

Marrujo asked Barnhart for an accounting of the dues collected, a refund to all fitness center members and seeks to have the fitness center reopened under new management. She points out that employees just learned that SSA is contracting with

GlobalFit to provide reduced fitness center dues for employees "and yet at the TSC we have a beautiful fitness center that we can't use!"

At this point, the responsibility for the fitness center's failure and questionable financial arrangement appears to be shared by both SSA and EAA. Marrujo said that numerous complaints to both failed to resolved

the continuing problem with the center.

But, regardless of who is responsible, members who paid for services that were not delivered are entitled to have their money returned. The union is therefore looking into the possibility of legal proceedings to obtain refunds.

## News to Set Off Your Fuse!

**I**n 2005, the average CEO received \$11.75 million in total compensation. This is the result of a dramatic increase in pay—but only for top executives—while the gap between employees and execs widens.

Not only has on-the-job executive pay sky-rocketed, but CEO retirement packages have become obscene—again at the expense of workers and shareholders. While workers' retirement has eroded, many CEOs have negotiated retirement benefits that promise a lifetime of income far exceeding what they would be entitled to under the retirement plans of their workers—if the workers are lucky enough to have a pension plan! Many companies are converting to 401(k) plans that lower company contributions.

Here's the list of the 10 largest CEO pensions:

Pfizer: Henry McKinnell—\$6.5 million; Exxon Mobil: Lee Raymond—\$6.5 million; AT&T: Edward Whitacre—\$5.4 million; United Healthcare: William McGuire—\$5 million; IBM: Sam Palmisano—\$4 million; Home Depot: Robert Nardelli—\$3.8 million; Cogate-Palmolive: Reuben Mark—\$3.7 million; Comcast: Brian Roberts—\$3.6 million; Bank of America: Ken Lewis—\$3.4 million; Union Pacific: Dick Davidson—\$2.7 million.

Excessive CEO compensation is a corporate governance problem due to CEO domination of their boards. Reform is long overdue.

Go to [www.aflcio.org](http://www.aflcio.org) for additional information.



Council 220 1st Vice President Charlie Estudillo (l.) talks with Council President Witold Skwierczynski at the union's caucus in Baltimore, Maryland earlier this year.

# MSPB Expands Whistleblower Protections

In *Garrison v. Department of Defense*, MSPB Doc. No. DC-1221-05-0298-W-1, (March 7, 2006), the Merit Systems Protection Board (MSPB) overruled its administrative judge's (AJ) dismissal of Mr. Garrison's whistleblower appeal. Without holding a hearing, the AJ had decided that Mr. Garrison failed to make a non-frivolous allegation that he made protected disclosures. Among other issues, the Board made two important rulings in this case that make it easier for employees to assert non-frivolous allegations of reprisal for protected whistleblowing.

Mr. Garrison alleged that he blew the whistle on his supervisor for receiving help from a coworker while taking a certifying examination for a position within the agency. Specifically, Mr. Garrison alleged that his supervisor took this exam in an "open book" format with material that contained the answers and did so while another employee was present with him to assist with the answers.

In presenting this allegation, Mr. Garrison did not identify any specific law, rule or regulation that his supervisor supposedly broke when he received this assistance during the exam. The Board found that lack of reference to a specific law, rule or regulation was not a bar to Mr. Garrison's whistleblower complaint proceeding. Rather, the Board noted, on its own, that such conduct alleged would run afoul of OPM's regulations on "Employee Responsibilities and Conduct" which provide that "[a]n employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government." 5 CFR § 735.203. This is a "catch all" provision because it lumps in a large variety of types of misconduct without definition and without citation to any specific provision of law or rule hav-

ing been broken.

From this holding, it is arguable that almost any allegation of wrongdoing by an employee could be recognized as a protected disclosure, and thus protect the discloser from reprisal, as long as there was a reasonable belief that the wrongdoing occurred and the allegation was made to a higher-level official.

Any act which is "immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government" would violate 5 CFR § 735.203 and thereby violate a "regulation" giving rise to protected status. Moreover, whether or not an employee presenting a whistleblowing claim cites 5 CFR § 735.203 as the basis for his allegation that the alleged wrongdoer violated some law, the Board will apply that regulation, on its own, to determine if a protected disclosure was made.

Also in this case, the Board distinguished among two groups of employees and whether they have to "elect" what procedures to follow to bring allegations of reprisal for whistleblowing to the Board. Under 5 USC § 7121(g), an employee covered by a grievance procedure of a collective bargaining agreement (CBA) (i.e. "unionized employees") can allege reprisal for whistleblowing either to the Office of Special Counsel (OSC), the MSPB, or through the grievance procedure. However, only one of those options may be utilized. The Board noted that § 7121(g) only applies to grievance procedures in CBAs.

In this case, before filing with the OSC, Mr. Garrison, who was not covered by a CBA, filed a grievance challenging the merits of the agency's actions against him under the agency's own grievance procedure. The Board held that Mr. Garrison's agency grievance was not a bar to his subsequent filing with the OSC because such a grievance procedure is

not one covered by § 7121(g).

Consequently, an employee who is not covered by a CBA may have "two bites at the apple" to challenge conduct the employee believes is retaliatory because of protected whistleblowing.

*This information is provided by the attorneys at Passman & Kaplan, P.C., a law firm dedicated to the representation of federal employees.*

## WHY IS THIS CASE IMPORTANT?

SSA management negotiators changed the language in Article 3, Employee Rights, to restrict whistleblowing at SSA to only "gross" mismanagement or "gross" waste of funds. As Passman & Kaplan made clear in their interpretation of *Garrison*, virtually any allegation of wrong-doing by an employee could be considered a protected disclosure, whether it is "gross" or not if the allegation was made to a superior and the whistleblower reasonably believed the offense occurred.





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## Congress Asks: Did SSA Lie to Us?

Members of the Senate Special Committee on Aging complained to SSA Commissioner Jo Anne Barnhart about Deputy Commissioner Linda McMahon. It seems McMahon was not 100 percent accurate in her congressional testimony.

In a letter to Barnhart, Committee Chair Gordon Smith and Ranking Member Herb Kohl said they were “deeply troubled by recent reports showing a conflict between Ms. McMahon’s February 2 hearing testimony and communications made by her to Social Security Administration employees.”

McMahon thanked Congress for giving SSA the resources to address the new Medicare workloads. But, on January 21st she sent an email to all employees expressing how difficult the next year was going to be and admitting that the agency was not well-positioned “to help people understand, enroll in and negotiate”

the Medicare drug program. She also pointed out that the 800-number has been “overwhelmed” and that the new budget would not allow SSA to replace employees lost to retirement.

The Committee reviewed the relevant documents and determined for itself that there were “significant discrepancies.”

“We are disappointed that SSA failed to provide the Committee with a full and candid assessment of the challenges confronting SSA not only in implementing its Part D responsibilities, but also in managing the spill-over effects in other SSA programs. Such dissemblance severely impedes the critical oversight and investigative functions of this committee,” Smith and Kohl wrote.

The Committee sought a written explanation and asked McMahon to revise her testimony. Barnhart wrote back expressing her re-

gret for the *misunderstanding* and included a statement from McMahon that had more spin on it than a pitch from Gaylord Perry!

She alleged that her testimony dealt solely with the Medicare Part D subsidy and that’s why she thanked Congress for providing SSA with the resources it needed. McMahon said that her emails to employees (that enumerated other SSA shortcomings) dealt with the “overall budget picture for FY 06 ...My intent was to acknowledge that the employees’ concerns were legitimate and to let them know what we were doing to mitigate the problem.”

Perhaps the best way to help employees and the agency is to tell the truth: SSA does not have the staff to do the work expected of it. It’s fine to tell employees. It’s better to tell Congress and ensure that there is absolutely no misunderstanding.