

UNITED SPINAL_{NOW}

Social Security Still Violating Electronic Signatures Acts

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The Vice President for the Technology Engagement Center at the U.S. Chamber of Commerce, a business lobbying group in Washington, D.C., estimated that the federal government's use of "non-digital processes actually adds 10.5 billion hours...at a cost to Americans of \$117 billion" and that "...the government is not investing in digitization the way it should be."

This is particularly relevant to a case brought by United Spinal Association against the Social Security Administration (SSA) for its failure to comply with the Electronic Signatures and Global and National Commerce Act and the Government Paperwork Elimination Act for more than 20 years.

The Acts require the federal government to accept electronic signatures and to take steps to adapt its procedures accordingly. Federal government agencies do not have discretion to violate this law. They must comply. Nevertheless, the Social Security Administration, a sub-agency of the Department of Health and Human Services (HHS), has dragged its heels for two decades regarding some of its procedures.

While some HHS and even SSA matters can be handled electronically, SSA has singled out several processes for which they will not accept electronic signatures. United Spinal, after receiving complaints and attempting to persuade SSA to change its policies to comply with the Acts, had to sue because the "wet ink" signature policy affected people with disabilities in a discriminatory manner.

SSA has not changed its policy despite opposition from United Spinal and National Federation of the Blind. The forms at issue are applications for disability insurance benefits (SSDI) and Supplemental Security Income (SSI), which are submitted with assistance from a third party; representative appointment forms, i.e., forms authorizing a third party to represent the benefits applicant; and fee agreement forms, used by third party professionals (both lawyers and lay experts) to effectively represent disability benefit applicants. SSA is rejecting some disability benefit applications and other forms because they have been signed electronically (legal for the last twenty-plus years), and this during the COVID pandemic.

What is SSA's defense? It's fair to wonder, since the law is pretty clear and the agency is in violation. Basically, there is no defense – besides, "We haven't gotten to it yet." The case is in mediation. When United Spinal asserts that progress reports required by the mediator don't say anything useful except that they are working on it, SSA and its Justice Department lawyers say that we are not entitled to information about the agency's "deliberative process."

The agency is deliberately obscuring its effort – or lack of effort – to comply. United Spinal has requested, repeatedly, (so far unsuccessfully) that the court require SSA to state a date by which they will accept electronic signatures and bring themselves into compliance with the law, while making life easier for people with disabilities.

Suing SSA was necessary to get agency officials' attention. Apparently, that's not enough. We will be seeking judicial assistance in forcing heel-dragging, recalcitrant bureaucrats, who save the federal government money by slow-walking the SSDI/SSI application processes, to make SSA function like every other federal agency and large and small businesses all over the United States.

Don't forget, the longer the process takes, the less government pays in benefits. Applicants, already disabled, get sick or sicker, and even die during the application process. The government has no financial incentive to improve the process of paying out benefits and is wasting money and man hours, obviously not hurrying to comply. United Spinal will press the court to press the agency. Don't balance the books at the expense of those seeking help to which they are entitled.