

U.S. Congressman
Nick Rahall
WORKING FOR WEST VIRGINIANS

FOR IMMEDIATE RELEASE

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RAHALL JOINS RANKS AGAINST SOCIAL SECURITY BUREAUCRATS

WASHINGTON, D.C. -- U.S. Rep. Nick Rahall (D-WV) announced today that he has joined his colleagues on the Education and Labor Committee in their struggle to untangle the legal mess that Social Security administrators have created to backlog hundreds of cases in which recipients were awarded benefits.

Rahall joined his colleagues in co-sponsoring H.R. 4797, The Social Security Justice Act, which would force the Social Security administration to abide by the decisions of the courts and not continue to appeal favorable decisions until they receive a judgement to their liking.

"For too long now, the SSA has been able to appeal cases, perhaps as many as six or seven times, in which the claimant received a favorable decision. They would continue the appeal process until they got the decision they wanted, usually at tremendous expense to the claimant," said Rahall.

From 1981 to 1986, the SSA tied up more than 315,000 cases dealing with the issue of "medical improvement," even though the claimants had won in nine different federal circuits. The SSA not only refuses to abide by legal decisions already decided in federal district courts between circuits (inter-circuit), they refuse to apply the decision of the district court in the circuit in which it has already been decided.

"SSA is not even recognizing the jurisdiction of the circuit courts," said Rahall. "This bill works to curb the appeal process of the SSA by forcing them to follow circuit court decisions, and if the SSA loses in two circuits, it must seek Supreme Court review. If unsuccessful there, they must follow the decision of all circuits."

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FAIR IS FAIR

SOCIAL SECURITY JUSTICE ACT

H.R. 4797

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Dear Colleague: *Kew*

The Social Security Administration has been selectively refusing to follow court decisions that have favored claimants, and have forced those individuals to bear the costs of hiring lawyers to relitigate already decided legal issues. If the Social Security Administration does not like a circuit court decision, it arrogates the right to refuse to follow it even in the same circuit. This contemptuous behavior, codified by SSA in regulations issued this past January, is simply unfair.

From 1981-1986, the Social Security Administration has tied up 315,000 cases dealing with the issue of "medical improvement", even though the claimants had won in nine (9) different federal circuits. The Social Security Administration not only refused to abide by legal decisions already decided in federal district courts between circuits (inter-circuit), they refuse to apply the decision of the district court in the circuit in which it has already been decided (intra-circuit).

One of their tactics is looking at the legal decision so narrowly, so that most of the decisions can not be applied to similar circumstances, and must be relitigated. From 1985-1990, out of 800 cases decided in federal district court, the Social Security Administration found only 36 represented the same issue, and that 764 broke new legal ground.

The questions become, how many adverse decisions must the Social Security Administration receive before they can quit forum shopping? Who should bear the costs of individual interpretations of the law -- the individual claimant or the SSA?

The unconscionable behavior of the Social Security Administration has not gone unnoticed, however. The special blue ribbon Federal Courts Study Committee on Judicial Reform condemns this practice in its report to the Congress dated April 2, 1990 (pg. 59-60). In addition to the non-partisan Committee on Judicial Reform, the

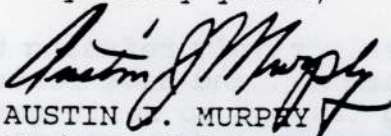
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American Bar Association condemned this practice in ABA Resolution No. 114, and called for enactment of a statutory prohibition against both intra-circuit and inter-circuit non-acquiescence.

Mr. Brooks, Mr. Kastenmeier and I have introduced H.R. 4797 to correct the problems of non-acquiescence. This bill forces the Social Security Administration to follow circuit court decisions. It also provides that when the Social Security Administration loses in two circuits, it must seek Supreme Court review, and, if unsuccessful, follow the decision in all circuits. And last, it gives the claimant a viable method of forcing the Social Security Administration to follow decisions, or, in the alternative, seek statutory changes.

This bill protects all our constituents from unfair procedures, and reestablishes the rule of law against unfair regulatory practices.

Very truly yours,


AUSTIN J. MURPHY
Member of Congress

If you would like to co-sponsor H.R. 4797, please mail the attached form to:

B-346 A Rayburn Building

If you have any questions, please call either Amanda Bond or Michael Johns at X 5-1927.

Congressman _____ would like to co-sponsor H.R. 4797, the Social Security Justice Act. Phone extension _____. Room Number _____. Contact person _____ (Staff Member).