

**The Role of Non-Attorney Representation
in the SSDI Determination Process:
A Case Study of One Prominent Intermediary**

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6th Annual Meeting of the Disability Research Consortium

August 1, 2018
Washington, D.C.

This research was supported by a grant from the U.S. Social Security Administration (SSA) as part of the Disability Research Consortium (DRC). The findings and conclusions are solely those of the authors and do not represent the views of SSA, any agency of the Federal Government, the NBER Disability Research Center or Mathematica's Center for Studying Disability Policy (CSDP).

1. Introduction

Intermediary organizations that help people apply for and receive Social Security Administration (SSA) disability benefits are a prominent but understudied part of the disability landscape. Beyond the marketing materials of non-attorney, for-profit intermediaries, there is very limited information about how they operate and how their clients fare in the application process. This is partly a result of the fact that the data on outcomes by type of non-attorney intermediary are limited. SSA does not collect data by type of non-attorney representative, and the agency has data only on whether a claimant had representation or not (Social Security Advisory Board 2012). A better understanding of these intermediaries and their clients can help to inform policies that may influence the extent to which their activities support or impede SSA's disability determination processes.

The goal of this paper is to fill this knowledge gap by providing a close-up of one prominent intermediary, whom we de-identified for proprietary purposes. We describe how the intermediary operates, the characteristics of its clients, and how client outcomes compare to those of SSDI applicants overall. The analysis is based on the intermediary's administrative data, which we compared to SSA's published administrative statistics. The analysis findings shed light on one important avenue through which people enter SSDI and may inform the policy options that could improve the entry process as well as identify employment supports that might serve as alternatives to SSDI entry.

2. The Intermediary's Operating Model

Screening process

The intermediary's screening process—that is, the selection of clients out of an initial pool of individuals seeking services (“potential clients”) —is an integral part of the intermediary's business model. To become a client, an individual must contact the intermediary and go through a two-part screening process, which involves a series of questionnaires to assess the individual's eligibility for and likelihood of receiving SSDI.¹ Interested individuals can engage the intermediary at any point in the SSDI determination process, excluding appeal at the federal district court level. The purpose of the first part of the screening process is to determine whether an applicant is either clearly eligible or ineligible for benefits. If the individual passes the preliminary screening, he or she then completes an assessment that gathers more extensive data that are necessary to confirm eligibility and to complete the SSDI application. Once the intermediary determines that the applicant has met the eligibility requirements and believes that the applicant's likelihood of being awarded benefits is viable, the applicant can choose to hire the intermediary to represent him or her. If the applicant takes this route, he or she officially becomes the intermediary's client. Because SSA allows only individuals to be representatives, the actual representative is an employee or associate of the intermediary.

Fee structure

The intermediary receives its fees from two sources. The first source is directly from individual claimants who are awarded SSDI through the intermediary. In these cases, the intermediary participates in the fee administration process, which is managed by SSA and in

¹ The intermediary focuses on clients interested in applying for SSDI. However, the intermediary may also use the screening process to identify potential dual claimants—those likely to be eligible for SSI, VA, and other disability benefits.

which SSA releases the SSDI retroactive payment to the individual, minus the representation fee, which it forwards to the intermediary. The intermediary compensates SSA for providing this service. The second source is the long-term disability insurance (LTDI) carrier, if any. Under the typical group LTDI coverage plan, the carrier agrees to pay the claimant's fee for representation if the individual is determined to be eligible by the intermediary and successfully obtains SSDI benefits. This option is especially important as the intermediary helps its clients coordinate requirements across both public and private disability benefits. Many LTDI plans have specific provisions that require claimants to also apply for SSDI (Anand and Wittenburg 2017). Intermediary representatives, like all other representatives, are paid on a contingent basis. If the client is awarded benefits, the representative from the intermediary is paid up to 25 percent of the client's SSDI back payments, an amount that cannot exceed \$6,000.

3. The 2013 Intermediary Client Cohort

Stages of the determination process

Figure 1 illustrates the stages of the SSDI determination process reached by those who applied to the intermediary in 2013, coming from all referral sources. In total, 142,563 people approached and were screened by the intermediary. Among this cohort, slightly less than one-third (29.6 percent) were accepted as the intermediary's clients, 18.5 percent applied to SSDI, and 13.6 percent were eventually awarded SSDI benefits. Approximately 37 percent of individuals who were accepted as clients ended up not applying for SSDI through the intermediary; we do not know whether these individuals applied for SSDI via other channels. Once working with the intermediary, some clients fall out of the SSDI process for a variety of reasons: for example, they may return to work, they may pass away, they may no longer be able to provide necessary medical evidence, or they may move to a different representative. Of the intermediary's clients who started the SSDI process, approximately three-quarters were eventually awarded benefits. Table 1 shows the referral sources of the intermediary's 2013 client cohort and how outcomes differed by source.

Characteristics of applicants and awardees

There were slightly more women than men in the 2013 client cohort (52.7 percent women versus 47.3 percent men). However, there was an even number of men and women in the cohort awardees. The client base was skewed towards older individuals, who are subject to more generous eligibility rules; about one-quarter of the applicants were ages 44 to 54, and another quarter were ages 55 to 64. The age distribution of awardees was skewed older than that of the applicants; among awardees, more than half were ages 55 to 64. The most common diagnosis among applicants was related to musculoskeletal system and connective tissue disorders (46.9 percent). The second most common diagnosis was related to mental and behavioral disorders (24.1 percent). More than half of the awardees reported that they were diagnosed with a musculoskeletal system and connective tissue disorder, and 40.8 percent reported that they were diagnosed with a mental and/or a behavioral disorder. Approximately half of the 2013 client cohort was married at the time of screening. The proportion who were married among those awarded SSDI benefits was higher at 61.4 percent.

We also compare the intermediary's awardees to the general SSDI awardee population on a number of dimensions and over time. For example, we find that awardees represented by the intermediary tend to be older and have higher prevalence of musculoskeletal disorders; however, the intermediary allowed respondents to report more than one medical condition, so the

distributions of impairments are not directly comparable. Awardees represented by the intermediary also receive higher benefit amounts on average, which could in part be due to the older clientele of the intermediary. For both SSA and the intermediary, awardees have been aging over time, which may be a reflection of the aging of the baby boom generation.

Allowance rates: intermediary clients versus overall SSDI applicants

Table 2 shows the allowance rates of the clients who ultimately were represented by the intermediary at each level of the application process, compared to all disabled worker applicants in 2013. In total, 23,700 clients of the intermediary applied for SSDI at the initial level in 2013, which represents approximately 1.4 percent of the entire SSDI applicant pool. We found that the allowance rate among the intermediary's clients was higher at every stage of the application process, most notably at the initial and reconsideration levels. At the initial level, the allowance rate among the overall SSDI worker population was 33.0 percent, whereas the allowance rate among the intermediary's clients was more than 60 percent higher at 53.8 percent. The national allowance rate was lower for both the intermediary and overall population at the reconsideration stage, but it was still substantially higher for the intermediary (20.2 percent versus 8.6 percent). The difference in allowance rates was not as large at the hearing level or higher (62.6 percent versus 54.5 percent). In total, the allowance rate for the intermediary's clients was 51.8 percent, whereas it was 30.3 percent for the entire 2013 applicant cohort.

5. Discussion

To summarize, our analysis provides new insight into a pathway to SSDI through a prominent intermediary, which represents approximately 6 percent of all represented initial claims and 17 percent of non-attorney represented initial claims.² Our findings demonstrate that the intermediary's clients differ from the overall SSDI population in distinct ways. In particular, the allowance rates among the intermediary's clients are higher, and the intermediary's clients that are awarded benefits tend to be older and have higher benefit amounts than the general awardee population. However, the intermediary has a very thorough screening process, and we do not know what happened with the applicants who failed to pass it. Compared to other forms of representation, the award rates of the intermediary are substantially higher. Using data from 2012 to 2014, Hoynes et al. (2016) showed that attorney representation was associated with a 1.23 percentage point higher allowance rate at the initial level, relative to the mean of 30 percent. The overall SSDI allowance rate for all represented claims—which ranged from 37 to 41 percent from 2007 to 2010—was also only slightly higher than the average (Social Security Advisory Board 2012). Finally, we note the potential for intermediaries to play a role in early intervention return-to-work efforts. During the screening process, the intermediary already gathers information to determine the applicant's work history, education, and interest in returning to work if the individual obtains benefits and sees improvement in his or her medical condition. Presumably, the intermediary could help potential awardees return to work before applying to SSDI based on screening results. At the very least, the intermediaries and others like it could refer relevant applicants to appropriate support services.

² We did a back-of-the-envelope calculation to arrive at this number. According to a report by GAO (2014), more than 413,000 initial claims (about 20 percent) in 2013 were represented, among which attorney representation accounted for two-thirds of the cases, and non-attorney representation accounted for the one-third. The intermediary represented 23,700 claims in 2013, amounting to about 6 percent of all initial represented claims and 17 percent of non-attorney represented cases.

References

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Figure 1. The intermediary's 2013 client cohort as of December 2017

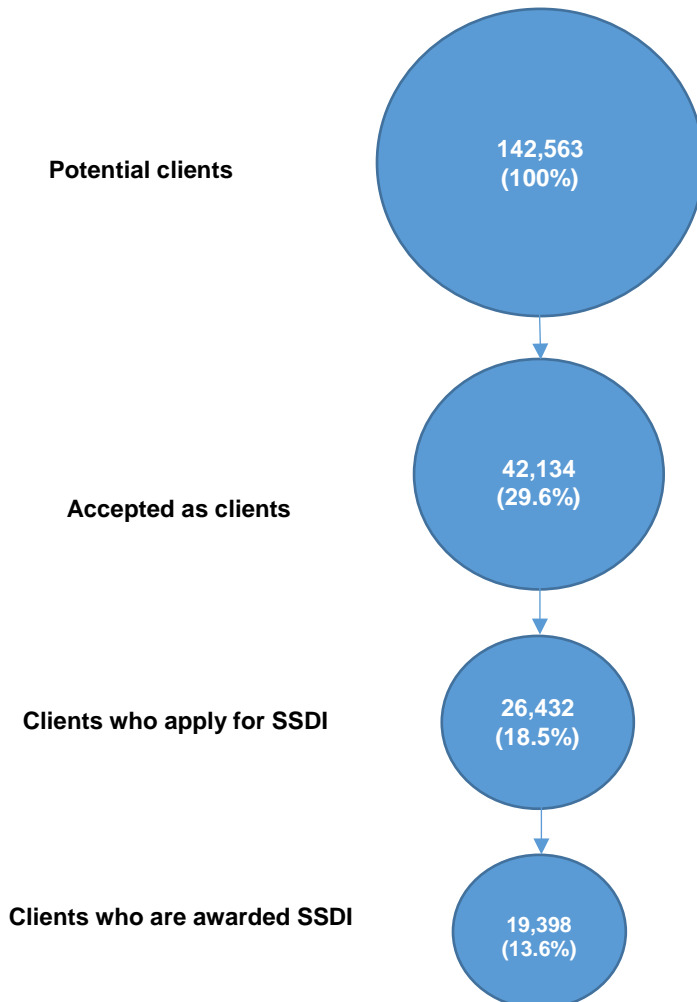


Table 1. Referral sources of the intermediary's 2013 client cohort

Referral source (%)	Potential clients N = 142,563	Clients N = 42,131	Clients	
			SSDI Applicants N = 26,432	SSDI Awardees N = 19,398
Family or friends	14.7	5.1	6.6	5.8
Internet/PR	55.6	5.2	5.8	4.2
Disability organization	0.2	0.2	0.2	0.2
Healthcare provider or professional	3.0	4.4	5.4	5.0
LTD or employer	23.0	77.5	72.3	76.3
Other	3.4	7.6	9.7	8.5

Source: Administrative data from the intermediary

Note: Characteristics are the ones measured at the time of screening when possible. The percentages calculated reflect only the number of individuals who responded. Percentages may not sum up to 100 due to rounding.

Table 2. Outcomes of the intermediary's clients relative to the overall SSDI population among the 2013 applicant cohort

Level of application	Sample	Number	Percent allowed
Initial	All	1,661,436	33.0
	Intermediary	23,700	53.8
Reconsideration	All	657,565	8.6
	Intermediary	1,817	20.2
Hearing or higher	All	404,848	54.5
	Intermediary	915	62.6
Total	All	2,723,849	30.3
	Intermediary	26,432	51.8

Source: Administrative data from the intermediary; Annual Statistical Report on the Social Security Disability Insurance Program, 2016 - Outcomes of Applications for Disability Benefits (Tables 61-63)

Note: For the entire applicant pool ("All"), data for the initial and reconsideration levels are current through June 2016, and data for the hearing level or above are current through July 2016, with a number of applications pending. For the intermediary sample, data are current through the end of 2016; SSA has made all decisions for this cohort.

