



NATIONAL COUNCIL OF SSA FIELD OPERATIONS LOCALS
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
Representing over 29,000 Social Security Employees working in over 1,300 field installations and 36 teleservice centers across the nation, Puerto Rico and Pacific Islands

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Michael J. Astrue
Commissioner
Social Security Administration
900 Altmeyer Building
6401 Security Blvd
Baltimore MD 21235

Re: Swine Flu

Commissioner Astrue:

AFGE has serious concerns regarding SSA's recent decisions to jeopardize employee health due to its inadequate response to the swine flu pandemic.

SSA employees, especially those who conduct face-to-face interviews with the public, are seriously concerned about their health and safety in view of the Agency's contention that swine flu is not a "serious communicable disease". Your designee, Celine Wilson, informed the AFGE Council 220 Health and Safety committee members on October 28, 2009 that H1N1 "is not a serious communicable disease." Ms. Wilson was the Agency's chief negotiator in the recent mid-term negotiations with the Union regarding swine flu. Consequently, she is your primary designee on swine flu issues. Ms. Wilson possesses no medical qualifications. She is a labor relations attorney. Her contention regarding swine flu contradicts the professional opinion of the Center for Disease Control which declares on page 1 of its website that the flu is a "serious communicable disease."

Precautions that SSA has taken such as providing tissues and hand sanitizers to employees and the public, supplying N-95 masks to employees upon request, instructions regarding frequent hand washing, etc. would indicate that even SSA believes that swine flu is a communicable disease despite the statements of Ms. Wilson. As to whether swine flu is a serious communicable disease, the facts speak for themselves. The Center for Disease Control has declared it as such. Do you disbelieve their expertise or authority to reach that conclusion? Over 21,000 people have been hospitalized so far in the United States. 5.7 million people have been infected in the USA. Over 1000 people have died in the United States from swine flu. Over 100 children have died from swine flu. The Center for Disease Control has declared swine flu a "pandemic". On April 26, 2009 President Obama declared swine flu a serious public health emergency. On October 24, 2009 President Obama declared swine flu a national emergency. In the face of these facts, your designee states unequivocally that swine flu is not a serious communicable disease. Such statements in view of the facts embarrass SSA.

Your policy to ignore the fact that swine flu is a "serious communicable disease" contradicts SSA's own chief medical officer's guidance which states in a question and answer session that not only is swine flu a serious communicable disease but that Agency protocols for handling interviews with those who display symptoms of

such a disease should be followed. Such protocols are found in the Agency POMS manual, Section GN 00203.010C which instructs employees to immediately notify management during a face-to-face interview if it is discovered that a claimant has a communicable disease or displays the symptoms of a communicable disease. Management will then inform the member of the public that the preferred method for conducting such interview is by telephone. If the claimant does not have a phone the next option is to contact a 3rd party to handle the business by phone. The goal of the Agency protocol is to insure that SSA will make every reasonable effort to reduce the public health risk in SSA offices.

In addition to this protocol, SSA has negotiated protections for employees who interview claimants with “serious communicable diseases.” Article 9, section 6(B) states that the employer will make appropriate arrangements for employees interviewing individuals with known serious communicable diseases. In April, 1996 I signed an agreement with Janice Warden, former Deputy Commissioner for Operations, regarding a Tuberculosis Interviewing Policy. This agreement mirrored the Agency protocol for all personal interactions by employees with members of the public with serious communicable diseases. This agreement stated that employees had a right to refuse to take a face-to-face interview with an individual who shows symptoms of a serious communicable disease under the imminent danger clause of CFR Part 1960.46(a). The policy also stated that employees who referred the interview to management after determining that the client showed symptoms of a serious communicable disease would not be disciplined by the Agency for such referral.

It is obvious that SSA’s refusal to acknowledge that swine flu is a serious communicable disease is based on the reluctance of the Agency to allow employees to refer interviews to management when those being interviewed display signs of swine flu. Ms. Wilson and managers throughout the country have threatened employees with disciplinary action if they refuse to take an interview with a member of the public that exhibits swine flu symptoms. Such threats of disciplinary action contradict SSA protocols. In addition, such threats contradict the advice of the Agency’s chief medical officer. Also, such threats violate the contract and federal OSHA regulations.

In addition, Ms. Wilson suggested that members of the public who suffer from swine flu symptoms could be directed to the private interviewing room and asked to use the phone in the private room to communicate with on site SSA employees regarding their Agency business. When Union Health and Safety committee members suggested that after such teleclaims SSA should thoroughly clean everything that the swine flu victim touched, the Union was informed that SSA would not ask their cleaning personnel to do such cleaning. In addition, the Agency ignored the fact that the virus is spread in an airborne manner so clients sent to the private interviewing room could be infecting employees and members of the public as they walked to such room. Why is your designee suggesting bizarre alternative interviewing methodologies which do not alleviate employee concerns that SSA is putting them in jeopardy of suffering a dangerous disease and, consequently, putting them in harm’s way?

What is most outrageous about SSA’s swine flu policy is that it forces employees to decide whether their health is more important than their job. Your policy, as explicated by Ms. Wilson, requires employees to interview swine flu sufferers if such victims prefer a face-to-face interview rather than a telephone interview. Due to the fact that swine flu is highly contagious, interviewing the sufferer under threat of discipline may result in the interviewer becoming infected with the disease. Currently the swine flu vaccine is not widely available so employees haven’t even been able to obtain that protection. SSA has made no effort to identify employees who are particularly vulnerable to the disease such as asthmatics, pregnant women and those who have poor immune systems, to at least provide them some accommodation by reassigning them to teleclaims work. In a case in the Boston Region SSA has even refused to provide temporary reasonable accommodations to an employee who produced a medical certificate from his physician stating that he should not take any face-to-face interviews during the flu season due to his severe asthmatic condition. According to the physician any exposure

to the H1N1 virus could lead to influenza, pneumonia and exacerbation of his lung condition to the degree that he would require a ventilator to stabilize his condition. Not only has SSA management denied his request for reasonable accommodation but management at the New Haven CN office where the employee works has informed employees that they must interview clients with swine flu or they face disciplinary action. Thus, your designees place the employee in a situation where he must choose to jeopardize his health and even his life in order to keep his job. That is outrageous.

What is equally outrageous is the callous disregard that SSA has for the health and safety of the customers who conduct business in SSA offices throughout the country every day. These clients are disabled, senior citizens and children – all vulnerable populations. They should expect a safe workplace when they conduct their SSA business. Instead the Agency has adopted a policy which allows swine flu infected claimants to insist on face to face interviews. This policy puts vulnerable members of the public in danger.

In addition to failing to acknowledge that swine flu is a serious communicable disease, SSA has also established a unilateral cap for flu shot reimbursement which violates the contract between AFGE and SSA. SSA has established a \$25 cap for flu shot reimbursement and requires that employees first submit their reimbursement claim to their insurance carrier. No such caps and insurance submission requirements exist in the contract. SSA's reimbursement policy is elitist in that employees in large facilities typically have flu shots administered on site for no charge to the employee. Most employees who work in field offices, TSCs and ODAR facilities do not receive on site flu shots. Only they are subject to out of pocket costs for flu shots which exceed the cap of \$25 unilaterally imposed by the Agency in violation of the labor agreement. This is symptomatic of SSA's attitude toward the field and the second class treatment that field employees receive from the Agency (e.g., lower transit subsidies, less comprehensive retirement seminars, significantly reduced wellness activities, etc.).

Despite the fact that SSA agreed in negotiations with the Union to provide N95 respirators for employees who are concerned with their health and safety, we are receiving many reports from the field that offices either do not have the respirators or that they do not have sufficient quantities of the respirators so that all employees can use them, at their discretion, for interviews. Thus, despite the fact that the Agency has agreed with the Union to supply respirators to bargaining unit employees, SSA is negligent in securing adequate numbers of respirators which employees can choose to wear during interviews that they are forced to take with swine flu victims. This negligence occurs while the swine flu pandemic rages throughout the country and there is a shortage of H1N1 vaccine.

Ms. Wilson, your designee, also informed the Union Health and Safety committee on October 28, 2009 that if employees come to work with swine flu symptoms, SSA will take no action. Thus, it appears to be the Agency policy to allow employee victims who go to work to infect their co-workers and members of the public rather than send the employees home on administrative leave. Your designees expressed amazement that employee swine flu sufferers would even contemplate working while ill. Obviously your designees do not understand the climate in the field. Many of your managers discourage the use of sick leave and question employees, in violation of the contract, regarding the nature, severity and duration of any condition that they may have which requires them to use sick leave. Also, many employees in the field are under intense pressure to produce more work to meet Agency production expectations. Such pressure and the stress that this pressure generates have caused employees to ignore illnesses and to force themselves to go to work. Unfortunately, if their illness is swine flu, they will likely infect other employees and the public. This situation could be abated if the Agency sent employees home on administrative leave who insist on going to work while ill with swine flu. However, Ms. Wilson indicated to the Union that SSA will not be sending ill employees home due to the fact that the Agency does not want to pay the administrative leave costs for such workers. Instead, SSA has decided to jeopardize the health and safety of employees and the public by permitting employees suffering from swine flu to work.

SSA has communicated with employees regarding some Agency policies regarding swine flu. However, your communications fail to provide employees with the full information that they need to access benefits and to make decisions regarding their health and safety. For example, SSA recently sent a message to employees informing them of their right to be reimbursed for flu shots. However, this message which was sent to all employees last week does not inform employees of their contractual right to obtain their flu shots on excused time. Article 9, Section 6 (A) of the contract clearly states that employees who obtain flu shots are entitled to administrative leave for that purpose. No Agency communication during this pandemic has informed employees of this right to administrative leave to get a flu shot. Why are you suppressing this information? Is the pursuit of more production so compelling that SSA feels that it should selectively inform employees of their rights and neglect to provide employees with key information such as their rights to obtain the vaccine on administrative leave? Perhaps if you don't provide such information, employees will obtain flu shots on their own time or won't obtain them at all and, consequently, pump out more work for the Agency. What a cynical view you and your management colleagues have regarding employee health and safety.

SSA also has taken no steps to mitigate the situation by offering the public with alternatives to access SSA services while we are in the midst of this pandemic. A simple step would be to require that 800 number employees discuss alternatives to communicate with SSA if clients wish to have in person appointments to take care of their SSA business and they are victims of the flu virus. However the teleservice protocols have not been changed to permit 800 number workers to discourage swine flu sufferers from coming to the office and offering teleclaim appointments as an alternative.

It's clear that the Agency reaction to the swine flu pandemic has been abysmal. You have the ability to change this and reverse course. Acknowledge that swine flu is a serious communicable disease. Inform employees that if they are faced with interviewing a member of the public who has swine flu symptoms that they should immediately inform management. Instruct your managers that they should inform swine flu sufferers that they can get their business done by phone from home. Inform employees that they are under no obligation to conduct face-to-face interviews with those displaying swine flu symptoms. Instruct employees with swine flu symptoms who show up for work that they should go home. Pay employees administrative leave if they are sent home. Inform employees in the field of their right to obtain flu shots at Agency expense on administrative leave. Eliminate the flu shot reimbursement cap and the requirement to submit claims first to employee's insurance companies and that they can only be reimbursed by SSA for costs not reimbursed by the insurance companies. Instruct your managers who informed employees that they would be subject to disciplinary action if they refused to interview a member of the public who displayed swine flu symptoms, that they must issue public retractions of such threats. Demand that your managers order sufficient N95 respirators so that employees can be assured that there are enough quantities available for their use during interviews. Insist that there are sufficient hand sanitizers for every desk for both employee and the public's use. Insist that cleaning personnel sanitize telephones and other instruments used by the public in the office on a daily basis to minimize the spread of the virus. Change the Agency 800 number protocols so that the public is informed that those suffering from swine flu should conduct their SSA business by phone rather than in person. Instruct managers that they must identify employees who are particularly vulnerable to the debilitating impact of swine flu (e.g., pregnant women, those with limited immunity, severe asthmatics.) Those identified should be assigned non-interviewing work for the duration of this pandemic.

If you take these steps, the SSA workplace will be safer, employees will be healthier and the Agency should be able to survive the pandemic with minimal casualties. If you ignore these steps, this crisis will deteriorate and some SSA employees will contract swine flu due to their exposure at the worksite. They will possibly infect their families. Someone will likely die due to such exposure. Do you want that responsibility? If not, I strongly urge you to acknowledge the danger and take the steps that the Union has proposed to abate the crisis.

Sincerely,

/s/

Witold Skwierczynski
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