

*Audit Report*

The Social Security Administration's  
Efforts to Eliminate the Hearings  
Backlog

# OIG

Office of the Inspector General  
SOCIAL SECURITY ADMINISTRATION

## MEMORANDUM

Date: September 23, 2015 Refer To:

To: The Commissioner

From: Inspector General

Subject: The Social Security Administration's Efforts to Eliminate the Hearings Backlog  
(A-12-15-15005)

The attached final report presents the results of the Office of Audit's review. The objective was to assess the Social Security Administration's efforts to eliminate the pending hearings backlog and improve hearing timeliness.

If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.



Patrick P. O'Carroll, Jr.

Attachment

# The Social Security Administration's Efforts to Eliminate the Hearings Backlog

## A-12-15-15005



September 2015

Office of Audit Report Summary

### Objective

To assess the Social Security Administration's (SSA) efforts to eliminate the pending hearings backlog and improve hearing timeliness.

### Background

In May 2007, SSA announced a plan to eliminate the backlog of hearing requests and prevent its recurrence. The backlog reduction plan centered on (1) improving hearing office procedures, (2) increasing adjudicatory capacity, and (3) increasing efficiency through automation and improving business processes. The hearings backlog reduction plan included 38 initiatives.

When the Agency announced its plan in May 2007, SSA's pending level was 743,800 cases. The average processing time (APT) in Fiscal Year (FY) 2007 was 512 days. SSA's goal was to reduce the number of pending hearings to 466,000 and APT to 270 days by the end of FY 2013.

### Findings

SSA efforts have not been successful in eliminating the pending hearings backlog nor reducing APT to 270 days. As of March 2015, SSA had about 1 million claims awaiting a decision, and the APT was approximately 450 days. We have identified four factors that contributed to this worsening situation: (1) an increase in hearing requests, (2) a decrease in administrative law judge (ALJ) productivity, (3) a decrease in senior attorney adjudicator decisions, and (4) a recent decrease in the number of available ALJs.

Of the 38 hearing backlog initiatives from 2007, 18 (47 percent) were ongoing, such as hiring new ALJs and reducing aged cases. Seventeen (45 percent) had been accomplished. For instance, SSA successfully created five new National Hearing Centers. However, SSA was unable to accomplish three (8 percent) initiatives. For instance, SSA canceled its e-pulling and auto-scheduling initiatives. SSA managers we interviewed stated the most important initiative was hiring additional ALJs. They also cited initiatives related to electronic processing, aged cases, video hearings, and ALJ productivity for their effectiveness.

At the time of our audit, the Agency had not published a long-term, multi-year strategy to address the pending hearings backlog and APT increase. The Agency Performance Plan for FY 2016 has an annual timeliness goal for the FY, but it is not part of a public, long-term strategy, and it lacks a goal for pending hearings. After our draft report, the Agency shared a new tactical plan focused on reducing pending hearings. The Agency was still finalizing performance measures related to this new tactical plan. SSA should also examine how other agencies have defined, measured, and addressed their claims backlogs.

### Recommendations

1. Ensure the new pending hearings tactical plan is integrated into the next strategic plan document, which should also provide the public with information on the Agency's long-term pending hearings and related timeliness goals, as well as an updated definition of what constitutes a hearings backlog.
2. Publish and implement annual goals that align with achieving the tactical and strategic plans, which could entail examining how other agencies established goals to address their backlogs.

The Agency agreed with our recommendations.

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## **ABBREVIATIONS**

AAJ	Administrative Appeals Judge
ALJ	Administrative Law Judge
APP	Annual Performance Plan
APT	Average Processing Time
ARS	Appointed Representative Services
CPMS	Case Processing and Management System
DQ	Division of Quality
DTHR	Division of Training and Human Resources
FIT	Findings Integrated Templates
FY	Fiscal Year
NHC	National Hearing Center
OAO	Office of Appellate Operations
OCALJ	Office of the Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
OPM	Office of Personnel Management
OQP	Office of Quality Performance
OTR	On-the-Record
SAA	Senior Attorney Adjudicator
SSA	Social Security Administration

## OBJECTIVE

The objective of this audit was to assess the Social Security Administration's (SSA) efforts to eliminate the pending hearings backlog and improve hearing timeliness.

## BACKGROUND

The Office of Disability Adjudication and Review (ODAR) administers SSA's hearings and appeals program. The hearing process begins after an applicant for benefits appeals a denial made by a State disability determination services office. Administrative law judges (ALJ) and senior attorney adjudicators (SAA) issue decisions at hearing office locations nationwide.

In May 2007, SSA announced a plan to eliminate the backlog of hearing requests and prevent its recurrence.<sup>1</sup> When the Agency announced its plan, SSA's pending level was 743,800 cases, and the average processing time (APT) was 512 days. SSA's goal was to reduce the number of pending hearings to 466,000 and APT to 270 days by the end of FY 2013. The backlog reduction plan centered on (1) improving hearing office procedures; (2) increasing adjudicatory capacity; and (3) increasing efficiency with automation and improving business processes. The backlog reduction plan had 38 hearings backlog initiatives.

We met our objective by reviewing SSA's planning documents related to reducing its pending hearings backlog and improving timeliness. We analyzed trends in the number of pending cases, APT, dispositions, hearing requests, and productivity for ALJs and support staff. We met with regional office management teams to discuss the effectiveness of the 38 initiatives. Finally, we met with ODAR executives to discuss ODAR's strategy for reducing and eliminating the hearings backlog.<sup>2</sup>

## RESULTS OF REVIEW

Even with the implementation of numerous backlog initiatives since 2007, SSA's pending hearings backlog had increased significantly, and APT had worsened in recent years. As of March 2015, SSA had over 1 million claims awaiting a decision (highest ever), and APT was approximately 450 days. We have identified four factors that contributed to this worsening situation: (1) an increase in the number of hearing requests, (2) a decrease in ALJ productivity, (3) a decrease in senior attorney adjudicator (SAA) decisions, and (4) a recent decrease in the number of available ALJs.

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<sup>1</sup> See Addendum to Statement of Commissioner Michael J. Astrue before the Senate Finance Committee, *The Social Security Administration: Is it Meeting its Responsibilities to Save Taxpayer Dollars and Serve the Public?*, May 17, 2012.

<sup>2</sup> See Appendix A for more information on our scope and methodology.

Of the 38 hearing backlog initiatives, 18 (47 percent) were ongoing. For example, at the time of our review, SSA continued hiring new ALJs, enhancing its electronic folder system, and focusing on aged cases. Seventeen (45 percent) initiatives had been accomplished. For instance, ODAR successfully created five new National Hearing Centers and expanded video hearings options in other areas. Finally, SSA was unable to accomplish three (8 percent) initiatives. For instance, SSA canceled its e-pulling and auto-scheduling initiatives. ODAR managers we interviewed stated the most important initiative was hiring additional ALJs. They also cited initiatives related to electronic processing, aged cases, video hearings, and ALJ productivity for their effectiveness.

At the time of our audit, the Agency had not published a long-term, multi-year strategy that specifically addressed the growing pending hearings backlog and worsening timeliness. The FY 2016 Agency Performance Plan (APP) has an annual timeliness goal for the FY, but it is not part of a public, long-term strategy. The APP also lacks a similar goal for pending hearings. Agency managers informed us they were finalizing a new goal to achieve a 270-day APT by FY 2020, which ODAR would define as eliminating the backlog. After we provided our draft report to Agency managers, they shared the Agency's eight-point tactical plan outlining SSA's priorities through the end of FY 2016. One of the plan's goals was to reduce pending hearings, with ODAR listing 35 initiatives to achieve this goal. We determined 21 of these 35 initiatives were variations of the initiatives we discuss in this report. The Agency was still finalizing performance measures related to this new tactical plan. SSA should also examine how other agencies have defined, measured, and addressed their claims backlogs.

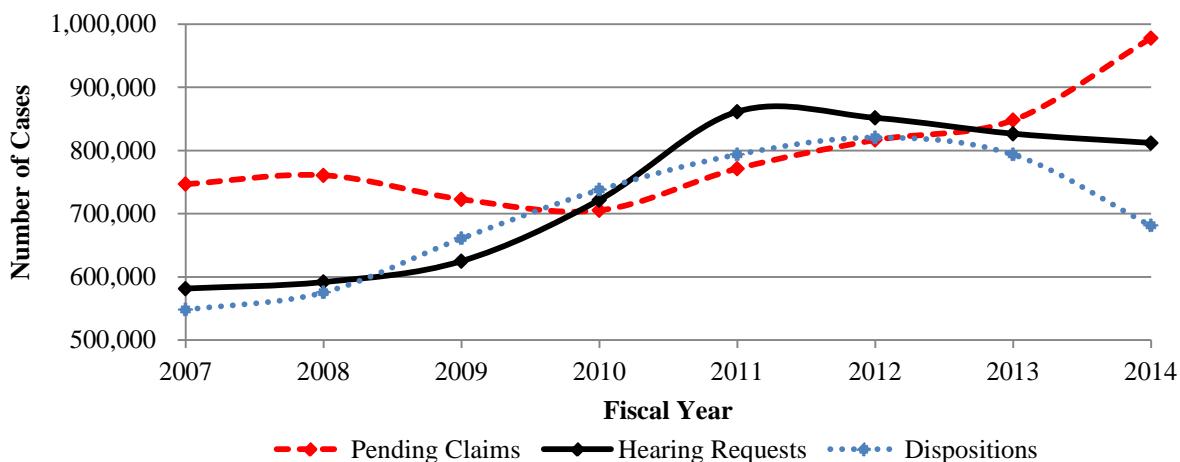
## **Status of the Pending Hearings Backlog**

SSA actions to date have not eliminated the pending hearings backlog. Since FY 2010, hearing requests have exceeded hearing dispositions, which has resulted in increasing numbers of pending claims. We identified factors that contributed to the increase in the number of pending claims. Because of growing pending claims, hearing timeliness has worsened in recent years.

### ***Trends in Pending Claims, Hearing Requests, and Dispositions***

By March 31, 2015, the number of hearing pending claims was over 1 million cases. According to ODAR, the number of pending claims was at the highest level in the Agency's history. When the hearings backlog plan began, the Agency was able to reduce the number of pending claims to about 700,000 (see red-dashed line in Figure 1) by FY 2010. However, since FY 2010, hearing requests have exceeded dispositions causing the number of pending claims to increase. In fact, dispositions peaked in FY 2012 and have decreased continuously since that time.

**Figure 1: Trends in Pending Claims, Hearing Requests, and Dispositions**



### *Factors Contributing to Growing Pending Claims*

We identified four factors that contributed to the increase in the number of pending claims: (1) an increase in the number of hearing requests, (2) a decrease in ALJ productivity, (3) a decrease in SAA decisions, and (4) a decrease in the number of available ALJs.

#### **Hearing Requests**

ODAR experienced a 48-percent increase in hearing requests from FYs 2007 to 2011. In FY 2011, the Agency received about 861,500 hearing requests, a record high.<sup>3</sup> Hearing requests leveled off after FY 2011 but remained near this high level (see black line in Figure 1).

#### **ALJ Productivity**

ALJ productivity decreased by 14 percent from FYs 2012 to 2014 (see Figure 2). Below, we discuss two factors that we believe contributed to lower ALJ productivity.<sup>4</sup>

- Increased Agency emphasis on decisional quality, leading to more time spent on the cases before ALJs. In August 2011, ODAR's Chief ALJ issued a memorandum that outlined specific areas on which ALJs should focus to improve the quality of their decisions. The memorandum referenced an Office of Quality Performance (OQP)<sup>5</sup> study that found more

<sup>3</sup> In our December 2009 report, *The Office of Disability Adjudication and Review's Staffing Plans Under the American Recovery and Reinvestment Act* (A-12-09-29140), we describe two factors that caused an increase in ODAR's disability workloads: the economic downturn and aging baby boomers.

<sup>4</sup> See Appendix B for an explanation of these and other factors.

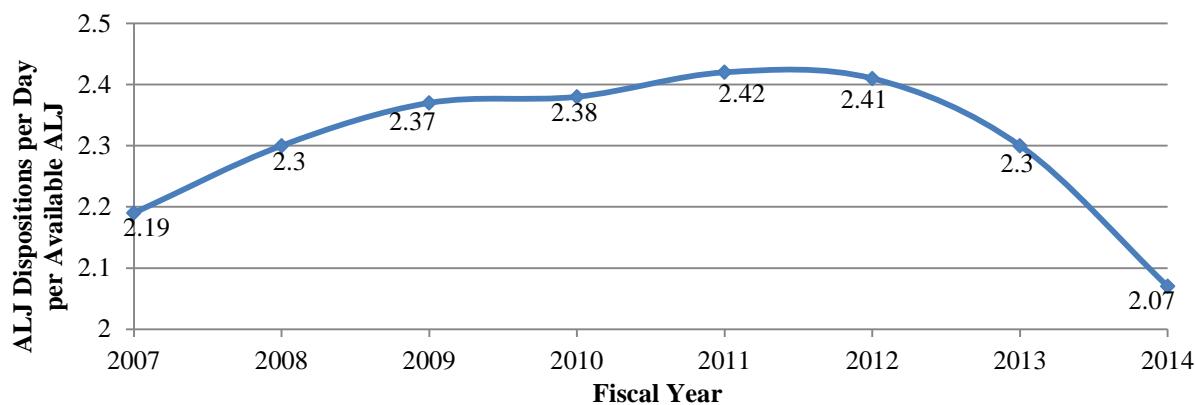
<sup>5</sup> In 2013, OQP was reorganized under the Office of Budget, Finance, Quality, and Management and is now the Office of Quality Review.

quality issues related to ALJ favorable decisions. SSA also increased monitoring quality issues, which included identifying and reviewing potential workload anomalies.

- In June 2011, ODAR placed restrictions on case assignment and reassignment. In FY 2012, ODAR managers limited new case assignments to ALJs at 1,200 cases, annually. ODAR lowered ALJ case assignments to 960 in FY 2013, 840 in FY 2014, and 720 in FY 2015.<sup>6</sup>

Some managers said that increased scrutiny of ALJ workloads might have also decreased ALJ productivity because it created a disincentive for ALJs to be productive for fear of being labeled an “outlier.” Because of this decrease in ALJ productivity, we estimate the Agency produced about 155,000 fewer dispositions in the 3 intervening FYs.<sup>7</sup>

**Figure 2: Trends in ALJ Productivity**



### SAA Decisions

Because of quality concerns related to SAA decisions, ODAR placed tight restrictions on SAA on-the-record (OTR) decisions beginning in FY 2013. As a result, ODAR experienced a steep decline in the number of SAA decisions.<sup>8</sup> In FY 2010, SAAs issued 54,200 decisions (7 percent of total dispositions). By FY 2014, SAAs had issued about 1,900 decisions (about 0.3 percent of total dispositions).

<sup>6</sup> In FY 2010, there were no caps on the number of assignments or reassignments to ALJs. In our February 2012 congressional response report, *Oversight of Administrative Law Judge Workload Trends* (A-12-11-01138), we noted that ALJs issued between 1 and 3,620 dispositions in FY 2010.

<sup>7</sup> To calculate the total fewer dispositions for FY 2012 to FY 2014, we (1) used the absolute difference between the average daily ALJ productivity rate for FY 2011 and the same rate for each of the 3 successive FYs, (2) multiplied each of the three differences by the number of workdays in a year, and (3) then multiplied each figure by the number of available ALJs at the end of each of the 3 FYs. We then added the sums together from all 3 FYs.

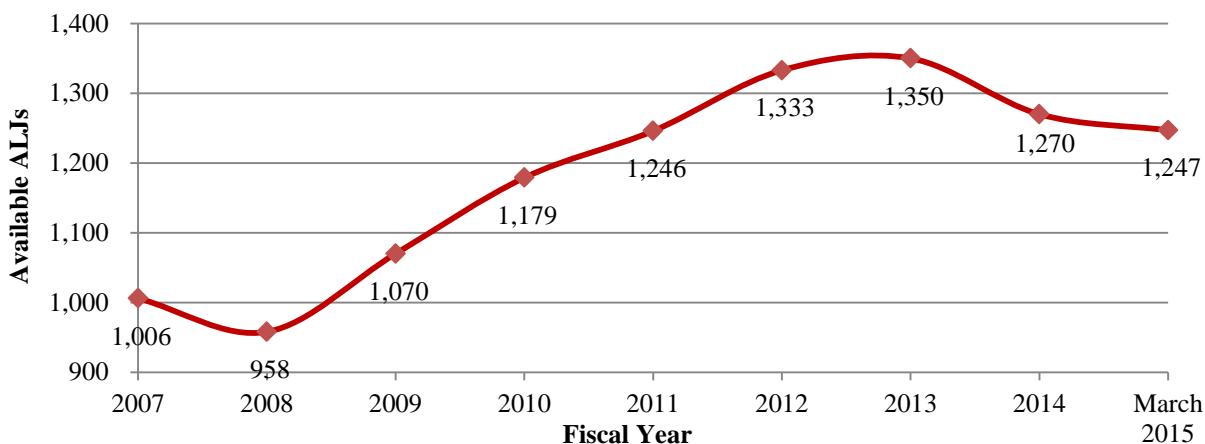
<sup>8</sup> SSA implemented the SAA program in November 2007 to issue fully favorable OTR decisions while maintaining the current level of ALJ decision writing support. We discussed this program in our June 2013 report, *Effects of the Senior Attorney Adjudicator Program on Hearing Workloads* (A-12-13-23002).

ODAR managers had mixed feedback on the SAA initiative. Some thought it improved productivity and timeliness, but others had concerns over decisional quality. With the reduction of adjudicatory duties in recent years, most SAAs' primary focus became decision writing.<sup>9</sup> ODAR is also piloting a program whereby SAAs conduct pre-hearing conferences with unrepresented claimants. The SAAs inform claimants about their rights to representation and helps ensure all medical records are in the file.

### Available ALJs

The last factor causing an increase in pending claims is the number of available ALJs (see Figure 3). From FYs 2007 through 2013, ODAR increased the number of available ALJs from about 1,000 to 1,350 (a 34-percent increase).<sup>10</sup> However, by March 2015, the number of ALJs had decreased from 1,350 to slightly less than 1,250.<sup>11</sup>

**Figure 3: Trends in the Number of Available ALJs**



ODAR executives cited recent budget constraints and working with a limited ALJ register from the Office of Personnel Management (OPM) as the two main factors for the decrease in available ALJs.<sup>12</sup> For instance, ODAR managers stated that, while the Agency planned to hire 400 new

<sup>9</sup> *Id.* Our June 2013 audit of the SAA program reported that OQP found a significant drop in its decisional agreement rate on SAA decisions.

<sup>10</sup> We noted earlier that hearing requests increased 48 percent from FYs 2007 to 2011. During this same period, available ALJs increased about 24 percent. However, as we discussed, SSA was also using SAAs during this period, which in FY 2011 equated to about 100 ALJs producing 500 decisions apiece. If added to the available ALJs in FY 2011, the increase in adjudicators from FYs 2007 to 2011 was about 34 percent.

<sup>11</sup> We discuss FY 2015 hiring in the next section.

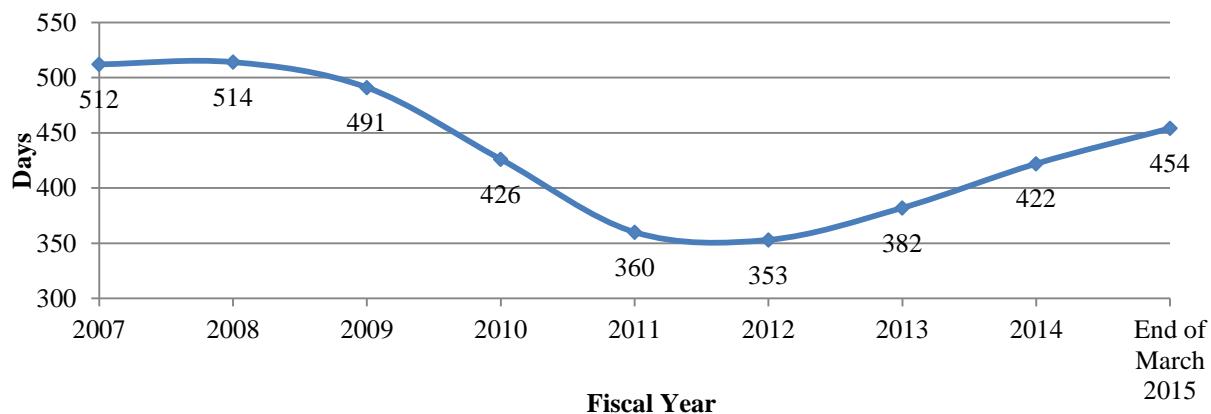
<sup>12</sup> OPM has the authority to establish ALJ qualifications, administer the ALJ examination, and maintain a register of qualified candidates for ALJ employment by Federal agencies. We discussed some of the hiring difficulties experienced by SSA in our February 2013 congressional response report, *Interagency Agreements with the Office of Personnel Management for Administrative Law Judge Services* (A-05-12-22144).

ALJs in FYs 2013 and 2014, it could obtain only 100 new ALJs from the OPM register. In our February 2013 report on the OPM process,<sup>13</sup> we noted SSA's concerns about (1) the lack of more frequent examinations for potential ALJ candidates, (2) the qualification process OPM used to identify viable ALJ candidates, and (3) issues surrounding the maintenance of candidate information on the ALJ register. In early 2015, a workgroup comprising individuals from SSA, OPM, the Office of Management and Budget, the Department of Justice, and the Administrative Conference of the United States convened to recommend ways of eliminating potential roadblocks in the hiring process.<sup>14</sup>

### ***Hearing Timeliness***

Hearing timeliness continues moving away from SSA's APT goal of 270 days. The backlog timeliness goal in the Agency's 2007 backlog reduction plan was to reduce APT to 270 days by the end of FY 2013. SSA reduced APT to a low of 353 days in FY 2012 (see Figure 4). However, as the number of pending hearings increased, APT rose and was at 454 days by the end of March 2015.<sup>15</sup>

**Figure 4: Trends in APT**



### ***Status of Hearing Office Backlog Initiatives***

We reviewed the status of the 38 hearing backlog initiatives to identify those initiatives that were ongoing, accomplished, or not accomplished. We also spoke to ODAR managers to obtain their views on the more effective initiatives.

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<sup>13</sup> Id.

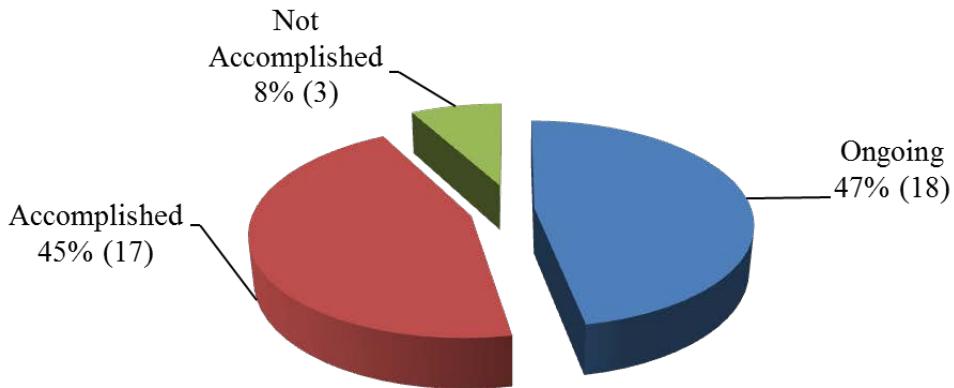
<sup>14</sup> At the time of our audit, the workgroup was still discussing these issues, and changes in the ALJ hiring process had not been announced.

<sup>15</sup> We are also completing an information report on *Hearing Office Average Processing Times* (A-05-15-50083), which we plan to issue in 2015.

## *Status of Hearings Backlog Initiatives*

At the time of our review, 18 initiatives were ongoing, 17 were accomplished, and the Agency was unable to accomplish the remaining 3 (see Figure 5). We discuss the status of various initiatives below.<sup>16</sup>

**Figure 5: Current Status of ODAR's 38 Backlog Initiatives**



### *Ongoing Initiatives*

Of the 38 backlog initiatives, 18 were ongoing. We discuss some of the more notable initiatives below.

- The *ALJ Hiring Initiative* increased the number of available ALJs at ODAR hearing offices. ODAR planned to hire 250 new ALJs in FY 2015, but lowered their projection to about 200 as of August 2015. ODAR expects to lose about 100 ALJs in FY 2015. ODAR executives stated the ALJ hiring initiative is the most critical factor on whether the Agency will meet its backlog goals, with an ideal ALJ staffing level of 1,800 to 1,900 ALJs by FY 2018.<sup>17</sup>
- The *Transition to the Electronic Folder Initiative* allowed ODAR to transform the hearings process from paper to electronic folders. ODAR transfers cases electronically nationwide to improve productivity and timeliness by distributing case workloads from highly impacted offices to offices with more capacity to process workloads.

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<sup>16</sup> See Appendix C for status information on all 38 hearing backlog initiatives.

<sup>17</sup> ODAR executives mentioned the possibility of not having sufficient facilities to accommodate 1,800 to 1,900 ALJs in FY 2018. They said they are promoting policies to address this, such as teleworking and office sharing.

- The *Electronic Business Process Initiative* has standardized the hearing office operations so every office is using the same guidelines and procedures for case processing. The initiative allows ODAR to transfer cases between offices for case preparation and decision writing. As a result, hearing office support staff do not have to focus on time-intensive case preparation tasks, such as photocopying and mailing.
- The *Appointed Representative Services/Electronic Records Express Initiative* gave claimant representatives electronic access to their claimant's folder, thereby allowing SSA staff to focus on other workload tasks.<sup>18</sup> In August 2013, ODAR updated the system to provide representatives access to the status of appeals-level cases. In FY 2016, SSA plans to provide access to medical and vocational experts.
- The *Service Area Realignment/Interregional Case Transfers Initiative* has become an integral part of ODAR's business process. To help balance hearings workloads, ODAR facilitates temporary regional and inter-regional service area realignments and permanent case transfers as well as weekly temporary transfers for decision writing and case preparation assistance.<sup>19</sup> In FY 2014, ODAR began to realign hearing offices in West Virginia (Philadelphia Region) and Kentucky (Atlanta Region) with the Kansas City Region.
- The *Reduce Aged Cases Workload Initiative* requires that ODAR hearing offices process the oldest claims first. In FY 2009, ODAR's aged case goal was to have less than 1 percent of pending hearings older than 850 days by the end of the FY. ODAR met that goal. In each subsequent FY, ODAR lowered its definition of an "aged case" and successfully met its goals. In FY 2015, ODAR's aged case goal is to have less than 0.5 percent of pending hearings be older than 649 days by the end of the FY.<sup>20</sup>

### *Accomplished Initiatives*

Seventeen of the 38 backlog initiatives were completed. We discuss three completed initiatives below.<sup>21</sup>

- The *Video Hearing Expansion Initiative* gave ODAR greater flexibility in allocating hearing workloads and addressing backlogs nationwide. Our 2011 report on the Agency's use of video hearings found the number of video hearings increased by 260 percent from FYs 2005 to 2009, with the Agency conducting about 18 percent of all FY 2009 hearings by video.<sup>22</sup>

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<sup>18</sup> SSA OIG, *Congressional Response Report: Electronic Services for Claimant Representatives* (A-05-11-01124), August 2011.

<sup>19</sup> For example, in 2008, the Agency temporarily realigned some of its Ohio field offices in the Chicago Region with a hearing office in the Philadelphia Region.

<sup>20</sup> SSA OIG, *Aged Claims at the Hearing Level* (A-12-08-18071), September 2009.

<sup>21</sup> See Appendix C for a list of all the initiatives.

<sup>22</sup> SSA OIG, *Use of Video Hearings to Reduce the Hearing Case Backlog* (A-05-08-18070), April 2011.

Since then, video hearing usage had increased to 28 percent of all hearings in FY 2014. Video hearing expansion is complete, but video hearings have become a regular and prominent fixture in ODAR's business process. Of the 38 initiatives, only this one is mentioned in the Agency's *2014-2018 Strategic Plan*.

- The *National Hearing Centers (NHC)* allow ALJs at five locations<sup>23</sup> to assist backlogged hearing offices throughout the Nation with video hearings. The NHCs have also become an integral part of ODAR's business process, and hearing offices nationwide now routinely transfer cases to the NHCs for processing.<sup>24</sup>
- The *Increase Usage of the Findings Integrated Templates* was designed to improve the quality and legal sufficiency of the hearing decision by integrating the findings of fact into the body of the decision. ODAR stated it processes about 98 percent of all decisions using Findings Integrated Templates.

### *Initiatives Not Accomplished*

SSA was not able to accomplish three of the hearing backlog initiatives, including the two discussed below.<sup>25</sup>

- The *Auto-scheduling Initiative* was designed to automate the reservation of hearing sites and equipment as well as schedule the participants including ALJs, claimants, representatives, and experts. SSA began piloting the software in FY 2011 but canceled the initiative in FY 2014 because the software did not increase efficiency or effectiveness.
- The *ePulling Initiative* used customized software to identify, classify, and sort page-level metadata, thus automating some labor-intensive tasks for preparing a case in the electronic folder. In 2008, ODAR piloted the software at seven sites. However, ODAR canceled the initiative after piloting because the software did not provide the expected time efficiencies to justify the expense.<sup>26</sup>

### *Most Effective Initiatives per Managers*

After interviewing executives in ODAR's Office of the Chief ALJ, regional managers in all 10 regions, and the NHC Director, we learned that the *ALJ Hiring Initiative* was seen as the most effective initiative in reducing pending claims and improving timeliness. As we discussed

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<sup>23</sup> The five NHCs are in Chicago, Illinois; Baltimore, Maryland; St. Louis, Missouri; Albuquerque, New Mexico; and Falls Church, Virginia.

<sup>24</sup> SSA OIG, *The Role of National Hearing Centers in Reducing the Hearings Backlog* (A-12-11-11147), April 2012.

<sup>25</sup> See Appendix C for a list of all the initiatives.

<sup>26</sup> SSA OIG, *Electronic File Assembly* (A-07-09-19069), June 2009

earlier, management officials said the Agency needed more adjudicatory resources to reduce pending claims and lower APT.

ODAR managers also identified these initiatives as being effective.

- ***Initiatives Related to Electronic Processing – Transition to the Electronic Folder, Electronic Business Process, Appointed Representative Services/Electronic Records Express.***
- ***Initiatives Related to Video Hearings - Video Hearing Expansion and National Hearing Centers.***
- ***Improve ALJ Productivity Initiative*** – Managers said the initiative improved the consistency of production and gave each ALJ and office a clear performance benchmark.<sup>27</sup> As noted earlier, we believe ALJ productivity has declined because of a number of factors, including an increased focus on quality, hearing assignment caps, and ALJ concerns about being labeled an outlier.<sup>28</sup>
- ***Aged Case Initiative*** – Managers said that, although this initiative mainly benefited customer service, and not productivity or timeliness, getting decisions to claimants who had been waiting the longest was simply the fairest option.

## Agency Planning and Performance Monitoring

To learn about SSA's short- and long-term goals and strategies for reducing pending hearings and improving timeliness, we examined the Agency's strategic plan, reviewed performance-planning documents, and interviewed Agency officials. We also looked at strategic and performance planning documents at other Federal agencies.

### *Strategic Planning*

SSA's *2014-2018 Strategic Plan* did not provide the public with information on the Agency's long-term pending hearings and related timeliness goals and did not include an updated definition of what constitutes a hearings backlog. The only backlog initiative addressed in the plan called for increased video hearings, which is more a means to an end rather than identifying the end itself. As a result, the public cannot use SSA's current Strategic Plan as a roadmap to identify where the Agency wants to be in terms of its pending hearings and timeliness goals.

In our interviews with ODAR executives and other Agency officials, we learned they were adopting a new goal to achieve a 270-day APT by FY 2020. ODAR managers stated that if ODAR achieved the 270-day APT goal, it would eliminate the backlog. ODAR executives

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<sup>27</sup> In October 2007, ODAR's Chief ALJ issued a letter to all ALJs asking them to issue 500 to 700 legally sufficient decisions each year. ODAR has retained this benchmark.

<sup>28</sup> See Appendix B for more on ALJ productivity issues.

explained they moved away from the pending claims goal and re-defined their backlog goal to an APT goal because the public is more concerned about how long they wait in line rather than how many people are ahead of them. However, the Agency has not publicly explained the role of the 270-day APT goal in the definition of eliminating the hearings backlog.<sup>29</sup> For instance, in SSA's FY 2016 President's Budget Request,<sup>30</sup> the Agency stated that with adequate, sustained funding, it hopes to eliminate the hearings backlog by FY 2020. However, the Agency did not specifically mention a 270-day APT goal or its new hearings backlog definition.

### *Annual Performance Planning*

SSA's FY 2016 *Annual Performance Plan* (APP)<sup>31</sup> contained goals for timeliness, dispositions, and overall productivity at the hearings level but lacked a goal for pending hearings.<sup>32</sup> The Agency has lacked a pending hearings goal since FY 2011, when the APP goal was a pending hearings level of 668,000 by the end of the FY.<sup>33</sup> However, the FY 2016 APP had pending goals for cases processed at the initial and reconsideration levels (see Table 1).

**Table 1: SSA's APP Goals for FY 2016**

Goals	Level			
	Initial	Reconsideration	Hearings	Appeals Council
Pending	√	√		
Dispositions	√	√	√	
APT	√		√	
Aged Cases				√
Production per Workyear	√		√	
Decisional Accuracy	√			

The FY 2016 APP did not contain Agency goals beyond FY 2016. In addition, the APP did not define what constitutes a hearings backlog. Similar to the Agency's Strategic Plan, the public

<sup>29</sup> SSA has made this connection in earlier documents, including congressional testimony in 2012 when Commissioner Astrue stated, "When we established our target of reducing the number of pending hearings to 466,000, we based it on achieving the APT of 270 days... When persons request a hearing, they want to know how long it will take to get a decision. They are not interested in whether other people are waiting with them; rather, they want to know what will happen in their own individual cases." *The Social Security Administration: Is it Meeting its Responsibilities to Save Taxpayer Dollars and Serve the Public?: Hearing before the Senate Finance Committee* (May 17, 2012) (statement of Michael J. Astrue, Commissioner, Social Security Administration).

<sup>30</sup> The President's Budget Request is a public document that contains the Agency's budget request justifications for the next FY.

<sup>31</sup> SSA's APPs are public and published before the start of each FY and lists SSA's performance goals for the upcoming FY.

<sup>32</sup> Along with performance goals for the upcoming FY 2016, the document contained ODAR's revised performance goals for FY 2015.

<sup>33</sup> The Agency did not meet its goal that year, as pending hearings was at approximately 771,300 cases at the end of FY 2011.

cannot use the FY 2016 APP as a roadmap. For example, the FY 2016 APP stated that the FY APT target is 490 days, an increase from the FY 2015 target of 470 days. While the FY 2016 timeliness goal publicly communicated that the Agency plans for worsening timeliness in the upcoming FY, it did not reveal how the short-term timeliness goal fit into a long-term Agency strategy for improving timeliness.

SSA might also consider defining its hearings backlog and formulating its annual and strategic goals in a way that combines the key indicators for pending, timeliness, and aged cases into one simple measurement. For example, SSA could define its disability claims backlog as any pending claim older than 270 days, and set a FY goal to have less than a specific percent of its disability claims defined as backlogged by the end of the FY. We found SSA already had an internal measure for the percent of hearing cases older than 270 days. As of May 2015, 50 percent of the hearing requests were pending for more than 270 days. By having a single, clear, strategic, and annual goal, SSA would likely make the Agency's goals and achievements more understandable to the public, as well as within the Agency. Consequently, it would likely make it easier for these parties to track progress and gauge performance. SSA should also examine how other agencies have defined, measured, and addressed their claims backlogs, be it average age of pending or some other means.

## New Tactical Plan

After we provided our draft report to Agency managers, they shared the Agency's eight-point tactical plan outlining SSA's priorities through the end of FY 2016. One of the plan's goals was to reduce pending hearings by (1) increasing adjudicatory capacity, (2) improving process and decisional quality, (3) increasing accountability and the focus on aged cases, and (4) leveraging technology improvements. This tactical plan included 35 initiatives. We determined 21 of these 35 initiatives were variations of the initiatives we discussed earlier in the report. Among the other new initiatives, ODAR planned to conduct pre-hearing conferences using SAAs, establish judge-only video hearing sites, and reconsider an earlier regulation stipulating that evidence must be provided 5 days prior to a hearing. The Agency was still finalizing performance measures related to this new tactical plan.

## CONCLUSIONS

With approximately 1 million hearing claims awaiting a decision, SSA's hearings pending level is the largest in the Agency's history. Moreover, in recent years, hearing timeliness has worsened to about 450 days of processing time per case. The Agency is still using approximately half of the earlier backlog initiatives to tackle the growing backlog with new ALJ hiring being a central part of this strategy. That said, SSA has not published a long-term, multi-year strategy to address the growing number of pending hearings and worsening timeliness. Agency managers are finalizing a new goal to achieve a 270-day APT by FY 2020, which ODAR would define as eliminating the backlog. To the extent this plan is shared with the public and related goals are clearly highlighted in planning documents, SSA will provide the public with a useful roadmap and status reports as it attempts to eliminate the pending hearings backlog.

## **RECOMMENDATIONS**

To ensure sufficient information on the Agency's hearings backlog plan and goals is available, we recommend SSA:

1. Ensure the new pending hearings tactical plan is integrated into the next strategic plan document, which should also provide the public with information on the Agency's long-term pending hearings and related timeliness goals, as well as an updated definition of what constitutes a hearings backlog.
2. Publish and implement annual goals that align with achieving the tactical and strategic plans, which could entail examining how other agencies established goals to address their backlogs.

## **AGENCY COMMENTS**

The Agency agreed with our recommendations (see Appendix D).



Steven L Schaeffer, JD, CPA, CGFM, CGMA  
Assistant Inspector General for Audit

# *APPENDICES*

## **Appendix A – SCOPE AND METHODOLOGY**

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To accomplish our objective, we:

- Reviewed Social Security Administration (SSA) policies and procedures as well as the Hearings, Appeals and Litigation Law Manual guidelines.
- Reviewed prior Office of the Inspector General reports on processing the hearing workloads and SSA congressional testimony.
- Reviewed and analyzed Fiscal Years (FY) 2007 to 2015 data from the Office of Disability Adjudication and Review's (ODAR) workload management systems and management information reports.
- Reviewed Agency initiatives to reduce pending hearings and average processing time.
- Examined the status of these initiatives and reviewed future Agency plans in these areas.
- Reviewed SSA's strategic plans, annual performance plans and reports, and budget documents.
- Interviewed ODAR executives, Office of the Chief Administrative Law Judge management, regional and National Hearing Center management teams, management and staff from ODAR's Office of Budget, Facilities and Security, and SSA's Office of the Chief Strategic Officer.
- Interviewed officials from the Administrative Conference of the United States.
- Reviewed the best practices of other Federal agencies.

We found the Case Processing and Management System data used in this review to be sufficiently reliable to meet our objective. We did not verify information in other Agency management information systems nor the outcomes of the Agency's 38 initiatives. The entity audited was the Office of the Chief Administrative Law Judge under the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted this performance audit from January through April 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and conduct the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **Appendix B – FACTORS THAT MAY AFFECT ADMINISTRATIVE LAW JUDGE PRODUCTIVITY**

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### **Motivational and Work Ethics**

Our earlier work highlighted administrative law judge (ALJ) and hearing office productivity. In an August 2008 report,<sup>1</sup> we identified such factors as motivation and work ethic as reasons for varying levels of ALJ productivity. The report also identified disability determination services case development, staff levels, hearing dockets, favorable rates, individual ALJ preferences, and Agency processes as factors that could impact ALJ and hearing office productivity and processing times.

### **Increased Management Oversight**

With increasing attention on ALJ performance, ODAR's senior executives have continued refining their management oversight process and identifying issues that require immediate management action. As we reported in an earlier audit,<sup>2</sup> senior executives in ODAR,<sup>3</sup> along with a newly created Triage Assessment Group<sup>4</sup> in the Office of the Chief ALJ (OCALJ), worked with ODAR's Division of Management Information and Analysis to develop an ALJ early monitoring system. ODAR began testing an early monitoring system in summer 2011. For instance, the ALJ monitoring system was devising ways to create new management information after combining multiple risk factors related to ALJ performance, such as number of dispositions, number of on-the-record (OTR) decisions, and the frequency of hearings with the same claimant representative.

According to ODAR executives, an early monitoring system examines factors that, in and of themselves, would not represent an issue but might become problematic when coupled with other factors. ODAR stated early monitoring system factors were selected based on lessons learned in recent years and new directives to hearing office managers.<sup>5</sup> ODAR managers were already able

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<sup>1</sup> SSA OIG, *Congressional Response Report: Administrative Law Judge and Hearing Office Performance* (A-07-08-28094), August 2008.

<sup>2</sup> SSA OIG, *Identifying and Monitoring Risk Factors at Hearing Offices* (A-12-12-11289), January 2013.

<sup>3</sup> ODAR's senior executives include the Deputy Commissioner, Assistant Deputy Commissioner, Executive Director of the Office of Appellate Operations (OAO), Deputy Executive Director of OAO, Chief ALJ, and Deputy Chief ALJ.

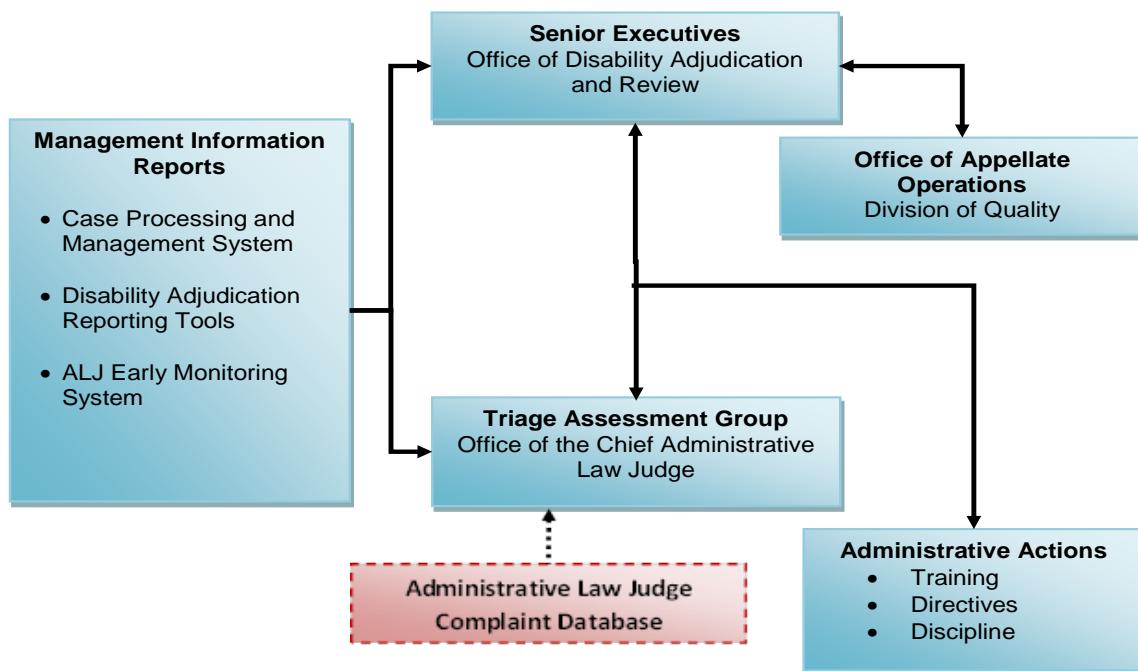
<sup>4</sup> OCALJ formed the Triage Assessment Group in FY 2012. Its members include the Chief ALJ, Deputy Chief ALJ, and Division Directors, as appropriate. The Group meets periodically to review the status of workload and performance issues among the ALJs, such as noncompliance with policies and procedures.

<sup>5</sup> For instance, in FY 2011, the Commissioner established an annual ceiling on dispositions per ALJ and the Chief ALJ established new controls over the transfer of cases from one ALJ's docket to another to ensure proper case rotation.

to monitor some of these risk factors separately using existing management information (MI) reports, but the early monitoring system provides a more comprehensive view of each ALJ's performance. Using the early monitoring system, each of these risk factors is normalized and combined with one another to produce an overall score. Hence, an ALJ with high productivity and a low number of OTR decisions would have a different score than an ALJ with high productivity and a high number of OTR decisions. ODAR senior executives can then determine whether those ALJs who scored high on a combination of risk factors need further attention.

In FY 2010, ODAR asked the newly created Division of Quality (DQ) in OAO to conduct focused reviews on ALJ-related issues to ensure compliance with Agency policies and procedures (see Figure B-1). ALJ issues identified during the testing of the early monitoring system were added to DQ's workload. DQ has conducted numerous focused quality reviews of ALJ issues, including the dispositions of ALJ outliers in terms of decisional outcomes and case rotation between ALJs and claimant representatives.

**Figure B-1: ODAR Oversight Process**



DQ reported the results of its studies to ODAR's senior executives. DQ-focused review findings have led to additional ALJ and SAA training to improve decisional quality as well as compliance with policies and procedures. For instance, after a number of DQ reviews identified ALJ and SAA procedural errors when evaluating treating source opinions and questionable phrasing of claimants' residual functional capacity, OCALJ created a mandatory training program for all

adjudicators to address this issue. Other DQ reviews have identified cases where the ALJ was not following Agency policy. In these cases, ODAR's senior executives issue directives requiring that the ALJ comply with policy.<sup>6</sup> If the ALJ fails to comply, ODAR can seek disciplinary actions against the ALJ. However, according to SSA, it cannot take disciplinary actions against an ALJ based solely on the ALJ's decisional outcomes.<sup>7</sup>

## Quality Reviews

In FY 2011, ODAR's OAO began reviewing a sample of ALJ allowances to identify potential shortcomings in ALJ processing. These pre-effectuation reviews allowed quality issues to be resolved before the Agency paid the case. Between FYs 2011 and 2014, OAO completed approximately 22,000 pre-effectuation reviews. In addition, SSA's Office of Quality Review performs a periodic quality review of a sample of hearing decisions issued by ALJs to assess the ALJ decision rationale.

## Agree Rates on Appeals Council Decisions

To improve the focus on quality, ODAR developed new metrics related to the Appeals Council outcome on ALJ cases. Called the "agree rate," this rate represented the percentage of requests for review that the Appeals Council denies compared to the number of request for review dispositions after subtracting those remands that fall outside of an ALJ's control.<sup>8</sup> For instance, excluded remands include cases where new evidence was submitted to the Appeals Council, subsequent allowances, incomplete or inaccurate records because of a lost or inaudible recording, lost record or evidence, or evidence belonging to another claimant.

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<sup>6</sup> As appropriate, DQ has referred some issues to the OIG.

<sup>7</sup> SSA's basis for this belief comes from its interpretation of the Merit System Protection Board's ruling *In re Chocallo*, 1 M.S.P.R. 605, 610-11 (1980) (holding that the Board will not find good cause to discipline an ALJ based solely on decision outcomes, and it will carefully examine for satisfaction of the good cause standard any proposed discipline based on an ALJ's performance of an adjudicatory function). For more information, see SSA OIG, *Congressional Response Report: The Social Security Administration's Review of Administrative Law Judges' Decisions* (A-07-12-21234), March 2012.

<sup>8</sup> SSA OIG, *Subsequent Appellate Actions on Denials Issued by Low-Allowance Administrative Law Judges* (A-12-13-13084), July 2014.

## **Cap on the Number of ALJ Dispositions**

In FY 2010, there were no caps on the number of ALJ dispositions. In our February 2012 report,<sup>9</sup> we noted ALJs issued between 1 and 3,620 dispositions. In June 2011, ODAR placed restrictions on case assignment and reassignment. In FY 2012, ODAR managers limited new case assignments to ALJs at 1,200 cases, annually. ODAR lowered ALJ case assignments to 960 in FY 2013, 840 in FY 2014, and 720 in FY 2015.

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<sup>9</sup> SSA OIG, *Congressional Response Report: Oversight of Administrative Law Judge Workload Trends* (A-12-11-01138), February 2012.

## Appendix C – STATUS OF MAY 2007 HEARING BACKLOG INITIATIVES

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The Social Security Administration's (SSA) May 2007 *Hearings Backlog Plan* comprised 38 initiatives designed to eliminate the backlog and decrease average processing times (APT). Here is the objective and latest status for each initiative.

**Table C–1: Hearing Backlog Initiatives**

Number	Title	ODAR Objective	Status
1	<i>Administrative Law Judge (ALJ) Hiring</i>	Hire additional ALJs to increase adjudicatory capacity.	<i>Ongoing</i> – As of August 2015, the Office of Disability Adjudication and Review (ODAR) projected it would hire about 200 new ALJs in total for the fiscal year (FY), with the expectation that about 100 will be lost to attrition.
2	<i>Appointed Representative Service (ARS)/ Electronic Records Express</i>	ARS allows appointed representatives to access status reports, view files, and upload or download files. The Electronic Records Express is used by appointed representatives, medical experts, and vocational experts to upload files.	<i>Ongoing</i> – In August 2013, ODAR said it had updated ARS to provide claimant representatives' access to the status of Appeals Council cases, and, as of September 2014, over 12,000 representatives had enrolled in ARS. In FY 2016, SSA plans to develop a similar program for medical and vocational experts.
3	<i>Auto-Scheduling</i>	Develop an automated calendaring function that will incorporate scheduling of experts, hearing sites and hearing rooms, equipment, and ALJ availability.	<i>Not Accomplished</i> – In FY 2011, a contractor completed development; however, the software could not perform the scheduling function efficiently, and ODAR decided not to move forward with the initiative.
4	<i>Automated Noticing</i>	ODAR's Case Processing Management System (CPMS) will be able to automatically produce the appropriate notice based on stored data.	<i>Accomplished</i> – CPMS now produces the required notices.
5	<i>Balanced Uniform Monthly Processing</i>	To create a standard practice requiring that hearing offices process their workload each week.	<i>Ongoing</i> – ODAR said it trained its managers in Balanced Uniform Monthly Processing, and it has since become a regular part of the hearing office business process. ODAR said it established metrics to focus on moving cases along at each step of the business process.
6	<i>Central Print &amp; Mail</i>	Provide high-speed, high-volume printing for all ODAR offices. Documents generated in the Document Generation System are sent electronically from the individual hearing offices to a print server for mailing by a contractor.	<i>Accomplished</i> – ODAR stated centralized printing has been completed for all major templates, and ODAR hearing offices are printing over 6 million notices a year using this technology.

Number	Title	ODAR Objective	Status
7	<i>Co-location</i>	To create co-located hearing sites with local field offices to fully and effectively support the electronic hearing process	<i>Ongoing</i> – As of June 2015, ODAR stated it had 44 hearing offices and 97 permanent remote sites that were co-located with field offices throughout the Nation. In addition, ODAR had 182 claimant-only video sites located in field offices. Working with Operations, ODAR identified 96 offices that can serve as claimant-only video sites. ODAR said it was now working to upgrade these rooms so the space can function as claimant-only video sites.
8	<i>Disability Determination Services Informal Remand Project</i>	Using profiles developed by the Office of Quality Performance (OQP), unworked paper cases from the ODAR backlog of cases will be screened and remanded to disability determination services to determine whether an allowance can be issued without a hearing.	<i>Accomplished</i> – ODAR said this initiative contributed to 9,046 dispositions in FY 2012 and 5,822 in FY 2013. Because of the low reversal rate, ODAR discontinued this initiative in FY 2014.
9	<i>Electronic Business Process/Standardized Hearing Office Process</i>	Facilitate timely and legally sufficient hearings and decisions by achieving and maintaining effective, efficient, and consistent case processing methods and office organizational structures throughout ODAR.	<i>Ongoing</i> – ODAR said all hearing offices are now operating using the Electronic Business Process.
10	<i>Enhance Hearing Office Management Information</i>	Enhance the hearing office management information system to provide additional methods to monitor hearing office workloads.	<i>Accomplished</i> – ODAR stated that in April 2012 Appeals Council remand information became available to hearing office staff via the “How MI Doing?” tool. Specific training modules are linked to this tool to allow adjudicators to see why a case was remanded and take immediate training on the specific issue. ODAR said it continues to add new reports to their management information menus.
11	<i>ePulling</i>	Develop customized software that can identify, classify, and sort page level data; re-organize the images after classification; and identify duplicates.	<i>Not Accomplished</i> – In July 2009, a pilot office study of ePulling versus traditional pulling times concluded that ePulling was not efficient, and the initiative was terminated.
12	<i>eSignature/Provide the Ability to Sign Decisions Electronically</i>	Increase efficiency by allowing ALJs and Attorney Adjudicators to sign decisions electronically.	<i>Accomplished</i> – ODAR stated that all hearing adjudicators can sign decisions through eSignature.
13	<i>Fill ALJ Dockets to Capacity–DCO (Operations) Overtime Assistance</i>	Use the resources of other SSA components to assemble folders and other grade-appropriate tasks on overtime in the most heavily affected hearing offices.	<i>Accomplished</i> – ODAR stated in FY 2010, DCO employees worked 44,156 overtime hours in ODAR components. This initiative was discontinued in FY 2011.

Number	Title	ODAR Objective	Status
14	<i>Fill ALJ Dockets to Capacity–Streamlined Folder Assembly</i>	Increase ODAR's adjudicatory capacity by instituting a streamlined folder assembly process for pending paper cases.	<i>Accomplished</i> – ODAR's Chief Judge's Bulletin 10-03 stipulated the folder assembly process that must be used for all electronic folders.
15	<i>Implement Quality Assurance Program</i>	A quality assurance program for the hearing process will be based on an in-line review of the claims file to ensure ODAR is providing timely and legally sufficient hearings and decisions.	<i>Ongoing</i> – ODAR stated the In-Line Quality Review process is fully functional in all 10 regions as well as at the National Hearing and National Case Assistance Centers.
16	<i>Improve ALJ Alleged Misconduct Complaint Process</i>	Implement efficiencies and improve the alleged misconduct complaint process	<i>Ongoing</i> – ODAR stated that, in January 2013, the Agency published Social Security Ruling 13-1p to clarify and revise its procedures for reviewing, investigating and responding to complaints of ALJ bias and misconduct; and in April 2013, the Agency published detailed instructions on the processing of ALJ bias/misconduct complaints. In June 2015, ODAR's Division of Quality Service began a pilot automation program to replace paper allegation folders with electronic allegation folders.
17	<i>Improve ALJ Productivity</i>	On October 31, 2007, the Chief ALJ issued a letter to all ALJs asking them to issue 500 to 700 legally sufficient decisions each year, timely move cases out of ALJ-controlled categories, and hold scheduled hearings absent a good reason to cancel or postpone hearings.	<i>Ongoing</i> – As noted in the body of the report, ALJ productivity has decreased since FY 2012. As of June 2015, 78 percent of ALJs were on pace or within 50 cases of being on pace to issue 500-700 dispositions in FY 2015. ODAR stated it continues to emphasize the importance of timeliness, policy, compliance, and legal sufficiency in decisions.
18	<i>Improve Decision Writer Productivity</i>	Hearing offices will continue using the decision writer statistical index report introduced at the beginning of FY 2007 to assess decision writer productivity. The Decision Writer Statistical Index uses an average standard of 4 hours for a decision writer to complete a favorable decision and 8 hours for a decision writer to complete an unfavorable decision.	<i>Ongoing</i> – ODAR stated that hearing offices still use this report to assess decision writer productivity. ODAR is developing a Decision Writer Productivity Index, an improvement to the Decision Writer Statistical Index because it breaks the drafted decisions into types that are more precise. ODAR expects to begin using the new index in FY 2016.

Number	Title	ODAR Objective	Status
19	<i>Improve Training for Hearing Office Management</i>	Use the latest information, tools, and methodologies to develop an effective, dynamic, and challenging training curriculum for newly promoted ODAR management officials. This training will consist of a three-phase approach involving orientation, distance learning and hearing operation specific classroom training. Goal: deliver timely ODAR Hearing Operation specific training to newly promoted ODAR hearing office managers beginning in summer 2007.	<i>Ongoing</i> – ODAR stated that in FY 2014, its Division of Training and Human Resources (DTHR) revamped core and supplemental training cadres for Hearing Office Chief ALJs, Hearing Office Directors, and Group Supervisors; revised SharePoint sites for instructors and students for continuous updating; and supported virtual training sessions, in addition to conducting a full schedule of classroom training. In addition, DTHR supported field management by training on revised bargaining unit contracts. DTHR maintained a distance learning (Phase II) program for all management positions requiring completion of 20-22 modules in a 12-month period, while working with a mentor. ODAR said cadres continue to update the training web and SharePoint sites, and expand virtual training and mentoring options.
20	<i>Increase Data Propagation to Electronic Folder</i>	Increase efficiency by reducing the need for manual data entry to the electronic folder, where possible. Increased propagation decreases the chance of erroneous input and saves hearing office staff time.	<i>Accomplished</i> – With the transition to the electronic folder, this initiative has been completed.
21	<i>Increase Usage of the Findings Integrated Templates</i>	Create a streamlined fully favorable decision format to minimize hand-offs and increase use of Findings Integrated Templates Decision Writing System for all types of decisions to improve productivity and legal sufficiency.	<i>Accomplished</i> – ODAR said Findings Integrated Templates usage is at 97 to 98 percent.
22	<i>Medical Expert Screening</i>	Identify cases that may meet or equal one of the Listings of Impairments as early in the hearing process as possible through the prudent use of pre-hearing interrogatories to medical experts.	<i>Not Accomplished</i> – In 2011, ODAR stated it developed interrogatory templates for medical experts and screening tools to identify cases that meet or equal one of the Listings of Impairments. However, ODAR said that, in practice, medical expert screening could not identify many such cases and did not produce expected efficiencies. As a result, hearing offices moved away from using it.

Number	Title	ODAR Objective	Status
23	<i>National Hearing Center</i>	Increase adjudicatory capacity and efficiency with a focus on an electronic hearings process. ALJs at the National Hearing Center use video technology to conduct all their hearings with claimants in hearing offices or other sites nationwide. Transfer of workload from heavily backlogged hearing offices will be much easier with electronic files, thus allowing the National Hearing Center to target assistance to these offices.	<b>Accomplished</b> – ODAR opened five National Hearing Centers in Chicago, Illinois; Baltimore, Maryland; St. Louis, Missouri; Albuquerque, New Mexico; and Falls Church, Virginia. The National Hearing Centers have effectively assisted hearing offices with high caseloads. Though ODAR does not plan for new National Hearing Centers, the existing Centers are now a regular part of ODAR’s business process.
24	<i>New Appeals Council Case Processing System/Appeals Review Processing System</i>	Increase efficiency by developing a new case processing and management system that will allow the Appeals Council to process electronic folders as well as provide additional online information to the hearing and field offices.	<b>Accomplished</b> – ODAR stated conversion to the new system took place in March 2008.
25	<i>Non-Disability Process</i>	ODAR is developing a two-pronged approach to address the current backlog of overpayment cases in ODAR and provide a long-term strategy for better development of cases received from field offices.	<b>Ongoing</b> – In 2015, ODAR and Operations agreed to collaborate on a pilot project to streamline and improve the processing of non-disability appeals. Under the pilot procedures, the field office uploads a complete non-medical hearing request package to the claims management system and alerts the servicing ODAR hearing office. This pilot began in April 2015 in the Denver Region. In its response to our draft report, the Agency informed us it expanded the pilot in July 2015 to include the Birmingham Hearing Office and Processing Service Center. ODAR said only a few cases have met the pilot criteria. ODAR continues to monitor and evaluate the pilot, and plan to expand it in the near future.
26	<i>OQP Review of Recon Denials</i>	OQP will expand pre-effectuation review of reconsideration denials to provide feedback to disability determination services and SSA management, make recommendations for addressing problems, and ultimately reduce the volume of hearing requests.	<b>Ongoing</b> – ODAR stated that the Office of Quality Review, which replaced OQP in FY 2013, had instituted a reconsideration denial review; and that in FY 2015, the Office of Quality Review’s goal is to conduct a quality review on 50,000 denials.
27	<i>One SSA</i>	To ensure the exchange of clear and concise information between ODAR and Operations components to formulate a united approach to reduce the disability pending backlog.	<b>Accomplished</b> – ODAR stated the regions had discontinued backlog meeting with Operations, but the regions still regularly communicated with Operations in monthly and quarterly meetings.

Number	Title	ODAR Objective	Status
28	<i>Ready to Adjudicate</i>	Identify targeted cases that are potentially ready for a hearing.	<b>Accomplished</b> – ODAR stated this objective was completed when ODAR's business process was established, which provides that cases be scheduled when they are ready for scheduling. ODAR said that its business process no longer necessitates that certain cases be targeted for a hearing.
29	<i>Reduce Aged Cases Workload</i>	To improve the hearing office business process by working down the oldest cases.	<b>Ongoing</b> – ODAR has made substantial progress with aged cases and lowered the aged case target every FY. In FY 2015, ODAR's aged case definition is a case that will be 649 days or older at the end of the FY. As of March 27, 2015, SSA stated 58 percent of these aged cases had been closed.
30	<i>Reduce Appeals Council Remands</i>	To assist in reducing hearing-level receipts by making technical corrections to decisions whenever possible instead of remanding them to the hearing level.	<b>Ongoing</b> – ODAR said that its Administrative Appeals Judges continue to work with their staff to identify appropriate cases. ODAR said the implementation of the Appeals Council Case Processing System, along with the Division of Quality reviews, has provided more feedback and improved training to hearing office staff to improve policy compliance, which has helped reduce the number of Appeals Council remands. ODAR noted the Appeals Council grant review rate has decreased from 21 percent at the end of FY 2012 to less than 15 percent in May 2015.
31	<i>Send Additional Documents to the Electronic Folder</i>	Allow such documents as earnings records and queries to be sent directly to the electronic folder, eliminating the need for hearing office employees to print them and scan them into the electronic folder.	<b>Accomplished</b> – ODAR stated, in July 2010, a Systems release included a new Document Generation System utility to upload queries generated by Query Master into the electronic folder. ODAR said it will add additional queries in the eFolder as needed.
32	<i>Senior Attorney Adjudicator/Virtual Screening Unit</i>	Increase adjudication capacity by giving attorney adjudicators the authority to make "on the record" fully favorable decisions. This improves public service by expediting fully favorable decisions and conserving ALJ resources for the more complex cases and cases that require a hearing.	<b>Ongoing</b> – Since FY 2011, the number of SAA decisions has decreased from about 53,300 decisions to about 1,900 in FY 2014. SAAs can now only issue decisions that are referred by the National Screening Unit. ODAR is testing a pilot to have SAAs conduct pre-hearing conferences with unrepresented claimants to inform them about their rights to representation and ensure all medical records are in the file.

Number	Title	ODAR Objective	Status
33	<i>Service Area Realignment/Interregional Case Transfers</i>	To assist the most heavily impacted hearing offices with processing their workloads. It is a two-pronged initiative. The first phase will include permanent inter-regional case transfers. The second phase will involve realignment of targeted hearing office service areas.	<i>Ongoing</i> – ODAR regularly transfers cases from hearing offices with backlogs, and each region constantly evaluates its workload and realigns its service area accordingly. In FY 2014, ODAR began to realign offices in West Virginia (in the Philadelphia Region) and Kentucky (in the Atlanta Region) with the Kansas City Region.
34	<i>Shared Access to Electronic Folder</i>	Provide shared jurisdiction allowing temporary transfer of electronic cases for pulling and decision writing assistance.	<i>Ongoing</i> – ODAR stated it is working on an upgrade allowing temporary assisting offices to make changes in CPMS.
35	<i>Streamlined Fully Favorable Decision</i>	Improve decision writing productivity by minimizing the hand-offs between ALJs and decision writers. Decision writers will be able to focus on the more complex cases.	<i>Accomplished</i> – ODAR said in FY 2011 it completed the rewrite and revision of all of the major Findings Integrated Templates.
36	<i>Transition to the Electronic Folder</i>	During FY 2007, ODAR implemented a major change in its business process that involved transition from processing hearings using paper folders to processing hearings using electronic folders.	<i>Accomplished</i> – ODAR said the Agency plans to eliminate the few remaining paper cases in FY 2015.
37	<i>Update Hearing Office Systems Infrastructure</i>	Support electronic folder processing by increasing the capacity of the infrastructure and by providing equipment required to support new automation initiatives for ODAR.	<i>Ongoing</i> – ODAR stated that the Agency's Office of Systems has the lead on updating SSA systems infrastructure. Current initiatives include Network, server refreshment, Single Device Strategy (workstation refresh), and Exchange 2013 migration.
38	<i>Video Hearing Expansion</i>	Increase the number of video hearings and subsequently decrease ALJ travel and increase ALJ productivity.	<i>Accomplished</i> – Video hearings are an ongoing part of the business process. From FYs 2008 to 2014, video hearings increased from about 56,000 to about 171,500.

## **Appendix D – AGENCY COMMENTS**

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### **SOCIAL SECURITY**

#### **MEMORANDUM**

Date: September 11, 2015 Refer To: S1J-3

To: Patrick P. O'Carroll, Jr.  
Inspector General

From: Frank Cristaudo /s/  
Executive Counselor to the Commissioner

Subject: Office of the Inspector General Draft Report, "The Social Security Administration's Efforts to Eliminate the Hearings Backlog" (A-12-15-15005)--INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Gary S. Hatcher at (410) 965-0680.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,  
“THE SOCIAL SECURITY ADMINISTRATION’S EFFORTS TO ELIMINATE THE  
HEARINGS BACKLOG” (A-12-15-15005)**

**General Comments**

In 2007, we developed an aggressive plan to reduce the hearings backlog. We worked diligently to address the backlog by successfully implementing many of the initiatives in our plan. We hired additional administrative law judges (ALJ), and established National Hearing Centers and National Cases Assistance Centers. We also expanded our national videoconferencing network that allowed us to process more work efficiently and timely. The 2007 plan produced positive results. However, we have encountered difficulties in reducing the hearings backlog because we were unable to hire enough ALJs and support staff, received an increase in requests for hearing, and experienced years of funding below our budget request.

For fiscal year 2016, we are developing a multi-faceted plan to address the increase in pending hearings that takes into account our current operating environment. Our plan depends on adequate ALJ capacity, and includes several complementary initiatives relating to quality, business process efficiencies, regulatory changes, and employee engagement. Any significant setbacks in ALJ hiring will pose a serious challenge to reducing the number of pending hearings. We rely upon the Office of Personnel Management (OPM) to provide us with a sufficient quantity of qualified applicants for more than 160 hearing locations across the country. To make progress, we need a larger, and continually updated, list of qualified ALJ candidates from OPM and adequate, sustained funding from Congress.

While ALJ hiring is critical, we will continue our focus on quality, maximizing operational efficiencies in our business process, pursuing appropriate regulatory reforms, and developing a workforce that delivers excellent customer service.

**Recommendation 1**

Ensure the new pending hearings tactical plan is integrated into the next strategic plan document, which should also provide the public with information on the Agency’s long-term pending hearings and related timeliness goals, as well as an updated definition of what constitutes a hearings backlog.

**Response**

We agree. Our next agency strategic plan, scheduled for publication in February 2018, will integrate a backlog plan that includes a clear definition of backlog. Until then, we will integrate our backlog reduction initiatives into our annual performance plan goals and other short-term planning documents.

## **Recommendation 2**

Publish and implement annual goals that align with achieving the tactical and strategic plans, which could entail examining how other agencies established goals to address their backlogs.

## **Response**

We agree.

## **Appendix E – MAJOR CONTRIBUTORS**

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