

*Audit Report*

Compassionate And REsponsive  
Service Plan to Reduce Pending  
Hearings

A-05-16-50167 / September 2016

# OIG

Office of the Inspector General  
SOCIAL SECURITY ADMINISTRATION

## MEMORANDUM

**Date:** September 30, 2016                              **Refer To:**

**To:** The Commissioner

**From:** Acting Inspector General

**Subject:** Compassionate And REsponsive Service Plan to Reduce Pending Hearings (A-05-16-50167)

The attached final report presents the results of the Office of Audit's review. The objectives were to review the Office of Disability Adjudication and Review's *Compassionate And REsponsive Service* plan in terms of (1) content, (2) lessons learned from earlier initiatives, (3) communication with key parties, and (4) plans for measurement and monitoring.

If you wish to discuss the final report, please call me or have your staff contact Rona Lawson, Assistant Inspector General for Audit, 410-965-9700.

  
Gale Stallworth Stone

Attachment

# Compassionate And REsponsive Service Plan to Reduce Pending Hearings

## A-05-16-50167



September 2016

Office of Audit Report Summary

### Objective

To review the Office of Disability Adjudication and Review's (ODAR) *Compassionate And REsponsive Service* (CARES) plan in terms of (1) content, (2) lessons learned from earlier initiatives, (3) communication with key parties, and (4) plans for measurement and monitoring.

### Background

In January 2016, ODAR issued the CARES plan, which outlined 21 initiatives to address the growing number of pending hearings and increasing wait times. According to the CARES plan, ODAR's goal is to reach an average processing time (APT) of 270 days by the end of Fiscal Year 2020. ODAR also expects the plan will help serve as a foundation to explore potential future initiatives as the Agency continues identifying ways to better serve the public.

In our November 2015 *Fiscal Year 2015 Inspector General Statement on the Agency's Major Management and Performance Challenges*, we stated reducing the hearings backlog and preventing its recurrence remains an Agency challenge. As of May 2016, approximately 1.1 million people were awaiting a hearing decision, and APT was 526 days.

### Findings

Of the 21 initiatives in the January 2016 CARES plan, we determined 13 related to earlier backlog reduction plans, including the Agency's 2007 initiatives and the 2015 Critical Eight Priorities plan. The eight new initiatives in the CARES plan included, among other items, (1) new uses of technology to identify high-risk cases for review and (2) hearing office support from other Agency components. However, Congress asked the Agency to pause moving forward with one of its new initiatives, the Adjudication Augmentation Strategy, pending further conversations. Additionally, since releasing the CARES plan, ODAR added six initiatives. As a result, the Agency was tracking 27 initiatives at the time of our review.

Our reviews of earlier backlog initiatives provide a number of lessons learned, including the need for (1) baseline data to measure progress, (2) sufficient oversight, (3) pilots to test initiatives, (4) good internal and external communication, (5) legal review of initiatives, (6) comprehensive management information, and (7) reliable cost and savings data.

In terms of communication with key parties, we found that ODAR did not share its completed CARES plan with the public until about 4 months after it was issued to its employees. To better communicate its plans and hold the Agency accountable for meeting its goals, we believe the CARES plan should be periodically updated for the public as well as integrated into the Agency's strategic plan.

ODAR was still developing its baseline data at the time of our review. As we have noted in prior reviews on hearings backlog initiatives, sufficient measurement and monitoring is necessary to ensure the current initiatives are achieving the intended results and limited resources have a positive impact on the hearings process. The Agency may be able to learn from earlier measurement and monitoring efforts to improve the CARES plan process.

### Recommendations

We made a number of recommendations related to communication, planning, measurement, and monitoring. The Agency agreed with our recommendations.

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## **ABBREVIATIONS**

AAJ	Administrative Appeals Judge
AC	Appeals Council
ALJ	Administrative Law Judge
APT	Average Processing Time
CARES	Compassionate And REsponsive Service
CPMS	Case Processing and Management System
C.F.R.	Code of Federal Regulations
DARES	Disability Adjudication Review Evaluation System
FY	Fiscal Year
MI	Management Information
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
OPM	Office of Personnel Management
OTR	On-the-Record
RVP	Representative Video Project
SAA	Senior Attorney Adjudicator
SSA	Social Security Administration

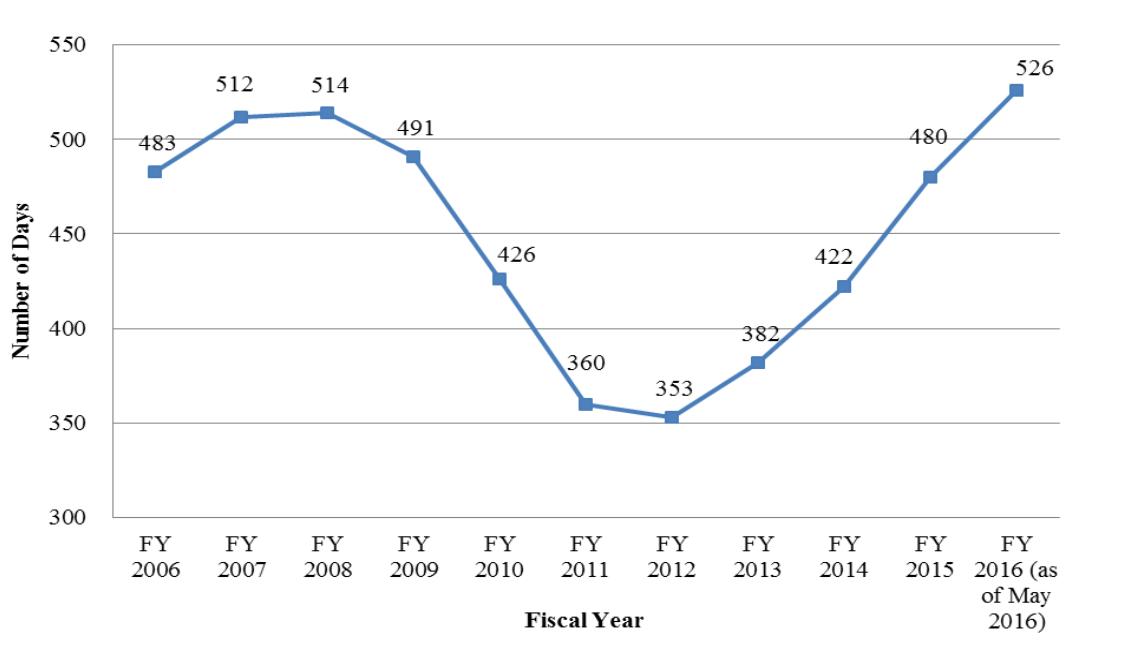
## OBJECTIVE

Our objective was to review the Office of Disability Adjudication and Review's (ODAR) *Compassionate And REsponsive Service* (CARES) plan in terms of (1) content, (2) lessons learned from earlier initiatives, (3) communication with key parties, and (4) plans for measurement and monitoring.

## BACKGROUND

In January 2016, ODAR issued the CARES plan, which outlined 21 initiatives to address the growing number of pending hearings and increasing wait times.<sup>1</sup> These initiatives related to four areas: business process improvements, information technology innovations, staffing and facilities, and employee engagement activities. According to the CARES plan, ODAR's goal is to reach an average processing time (APT) of 270 days by the end of Fiscal Year (FY) 2020. As of May 2016, APT was 526 days (see Figure 1). ODAR also expects the plan will help serve as a foundation to explore potential future initiatives as the Agency continues identifying ways to better serve the public.

**Figure 1: APT for Hearing Cases  
(FY 2006 Through May 2016)**

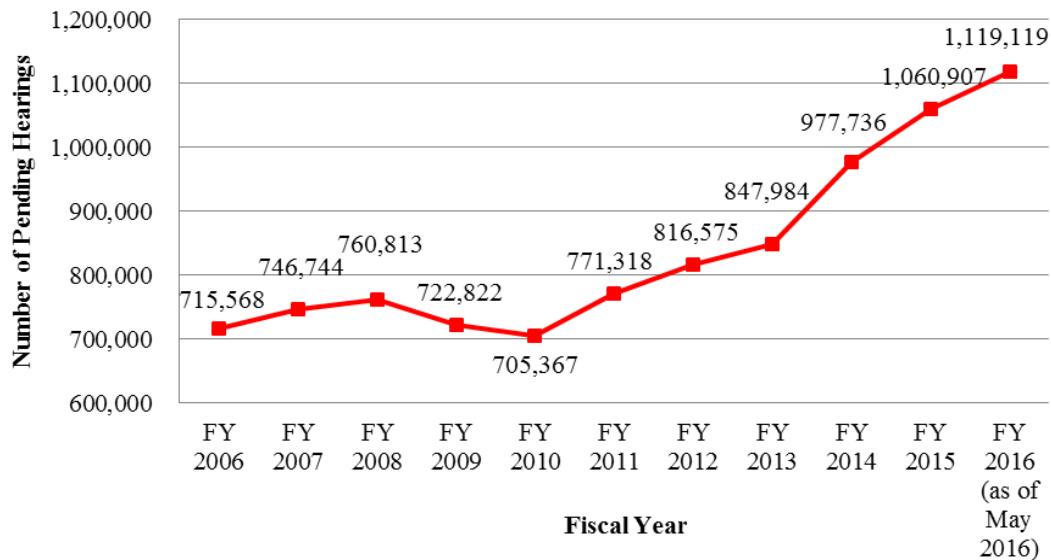


**Source:** Social Security Administration (SSA), ODAR's Case Processing and Management System (CPMS).

<sup>1</sup> As of June 2016, ODAR had added six initiatives. See Appendix B for details on the CARES initiatives.

In a November 2015 report, we stated reducing the hearings backlog and preventing its recurrence remained an Agency challenge.<sup>2</sup> As of May 2016, approximately 1.1 million people were awaiting a hearing decision (see Figure 2).<sup>3</sup>

**Figure 2: Number of Pending Hearings  
(FY 2006 Through May 2016)**



**Source:** SSA, ODAR, CPMS.

In May 2007, SSA announced a plan to eliminate the backlog of hearings requests and prevent its recurrence.<sup>4</sup> Even with the implementation of this plan, the Agency's pending hearings backlog increased significantly, and APT worsened in recent years.<sup>5</sup> As noted in our September 2015 report, Agency managers shared with us its 2015 Critical Eight Priorities plan outlining SSA's priorities through the end of FY 2016.<sup>6</sup> One of the plan's goals was to reduce

<sup>2</sup> SSA, Office of the Inspector General (OIG), *Fiscal Year 2015 Inspector General Statement on the Social Security Administration's Major Management and Performance Challenges* (A-02-16-50118), November 2015, p. 1.

<sup>3</sup> We discussed the pending hearings backlog in our September 2016 report, *Characteristics of Claimants in the Social Security Administration's Pending Hearings Backlog* (A-05-16-50207).

<sup>4</sup> SSA established a goal to reduce the number of pending cases to about 466,000 and APT to 270 by the end of FY 2013. The Agency's 2007 plan had 38 initiatives.

<sup>5</sup> SSA, OIG, *The Social Security Administration's Efforts to Eliminate the Hearing Backlog* (A-12-15-15005), September 2015, p. 1.

<sup>6</sup> There were 35 initiatives in the 2015 Critical Eight Priorities plan.

pending hearings. However, in July 2015, the Commissioner installed a new ODAR management team whose members told us the 2015 Critical Eight Priorities plan was superseded by the CARES plan.

To conduct this audit, we reviewed prior reports, studies, and efforts related to hearing backlog initiatives. We also spoke to Agency officials to learn more about each initiative as well as lessons learned from prior, related initiatives. Finally, we reviewed past workload data and outcomes to assess the impact of prior initiatives. Our complete scope and methodology is in Appendix A.

## **RESULTS OF REVIEW**

Of the 21 initiatives in the January 2016 CARES plan, we determined 13 related to earlier backlog reduction plans, including the Agency's 2007 initiatives and the 2015 Critical Eight Priorities plan. The eight new initiatives in the CARES plan included, among other items, (1) new uses of technology to identify high-risk cases for review and (2) hearing office support from other Agency components. However, Congress asked SSA to pause moving forward with one of its new initiatives, the Adjudication Augmentation Strategy, pending further conversations. Additionally, since releasing the CARES plan, ODAR added six initiatives. As a result, the Agency was tracking 27 initiatives at the time of our review.

Our reviews of earlier backlog initiatives provide a number of lessons learned, including the need for (1) baseline data to measure progress, (2) sufficient oversight, (3) pilots to test initiatives, (4) good internal and external communication, (5) legal review of initiatives, (6) comprehensive MI, and (7) reliable cost and savings data.

We found that, although ODAR had shared the CARES plan internally with components and employees, it did not share the entire plan with the public until a May 2016 congressional hearing. To better communicate its plans and hold the Agency accountable for meeting its goals, we believe the CARES plan should be periodically updated for the public as well as integrated into the Agency's strategic plan.

ODAR was still developing its baseline data at the time of our review. As we have noted in prior reviews on hearings backlog initiatives, sufficient measurement and monitoring is necessary to ensure the current initiatives are achieving the intended results and limited resources have a positive impact on the hearings process. SSA may be able to learn from earlier measurement and monitoring efforts to improve the CARES plan process.

## **CARES Plan Initiatives**

We determined that 13 of the 21 initiatives in the January 2016 CARES plan duplicated or expanded earlier backlog initiatives, including the Agency's 2007 plan and the 2015 Critical Eight Priorities plan. The 2007 initiatives generally assisted ODAR in reducing its hearings backlog, although, in some cases, their contribution declined over time. SSA implemented the remaining initiatives too recently to measure their effect. The eight new CARES plan initiatives included new uses of technology to identify high-risk cases and hearing office support from other

Agency components. Since releasing the CARES plan, ODAR has added six initiatives. As a result, the Agency was tracking 27 initiatives at the time of our review (see Table 1).

**Table 1: CARES Initiatives as of June 2016**

Initiatives	January 2016 CARES Plan	Added to CARES Plan	Total as of June 2016
New Initiatives	8	5	13
Earlier Initiatives <sup>1</sup>	13	1	14
<b>Total</b>	<b>21</b>	<b>6</b>	<b>27</b>

**Note 1:** Earlier initiatives relate to the Agency's 2007 hearings backlog plan and 2015 Critical Eight Priorities plan.

### *Prior Initiatives*

Among the 13 past initiatives from the January 2016 CARES plan, we determined SSA had 10 initiatives that were also part of the 2007 backlog plan. These initiatives included (1) hiring new administrative law judges (ALJ), (2) using senior attorney adjudicators (SAA) in decisionmaking, (3) proactive quality, and (4) video hearing. We found these initiatives generally assisted ODAR in reducing its hearing backlog, though, in some cases, their contribution declined over time.

For example, as we noted in our September 2015 report, SAAs initially assisted with on-the-record (OTR) decisions.<sup>7</sup> However, ODAR placed tighter restrictions on the OTR workload in FY 2013 because it was concerned the decisions lacked sound quality. As a result, the initiative's impact on the backlog lessened over time, declining from about 54,000 OTRs in FY 2010 to about 600 in FY 2015.<sup>8</sup> The modified SAA initiative, called the National Adjudication Team, uses a small team of SAAs to review cases nationally. This effort builds on the lessons learned from previous efforts, though the number of OTR cases at the time of our review remained small compared to the past.

In terms of the video hearings initiative, the Agency experienced an increase in video hearings from FYs 2007 to 2012. However, the number of video hearings declined in the following years.<sup>9</sup> As part of the enhanced video hearing initiative under CARES, ODAR was expanding the use of desk-top video units to non-management judges to increase video capacity.

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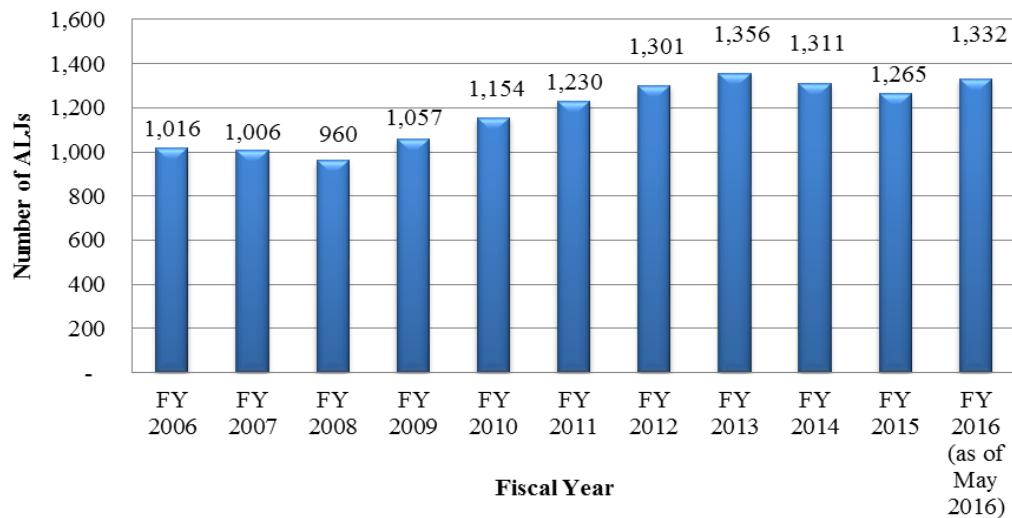
<sup>7</sup> SSA, OIG, *The Social Security Administration's Efforts to Eliminate the Hearings Backlog* (A-12-15-15005), September 2015, p. 4.

<sup>8</sup> SSA, OIG, *On-the-Record Favorable Decisions Processed at Hearing Offices Within 100 Days of Receipt* (A-12-14-14082), January 2016, pp. 2 and A-2.

<sup>9</sup> The percent of hearings conducted by video continued to increase until FY 2014, at which point it leveled at approximately 27 percent.

SSA also had success hiring ALJs in recent years. SSA relies on the Office of Personnel Management (OPM) to provide the Agency with a sufficient number of qualified ALJ applicants.<sup>10</sup> However, in its CARES plan, SSA stated that constraints on the Agency's ability to hire sufficient numbers of ALJ candidates acceptable to SSA, retiring ALJs, and several years of insufficient funding caused pending levels and wait times to rise dramatically. The CARES plan states ODAR plans to hire at least 250 new ALJs in FYs 2016, 2017 and 2018 (see Figure 3 for the annual level of available ALJs).<sup>11</sup> The plan also noted, "This need to hire ALJs also requires hiring support staff for each ALJ. Currently, we have approximately 4.5 support staff for every ALJ." Nevertheless, starting in June 2016, ODAR was under a hiring freeze except for ALJs. As a result, some of the newly hired ALJs may lack sufficient support staff to assist them with their workloads. Moreover, the productivity of ALJs already onboard continued to decline over the years, dropping 13 percent from FYs 2012 to 2015. As a result, ODAR may not obtain the full benefit from ALJ hiring.<sup>12</sup>

**Figure 3: ALJs Available to Hold Hearings  
(FY 2006 Through May 2016)**



**Source:** SSA, ODAR, CPMS.

<sup>10</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 SSA experienced in our February 2013 report, *Interagency Agreements with the Office of Personnel Management for Administrative Law Judge Services* (A-05-12-22144), pp. 1-2.

<sup>11</sup> In August 2016, ODAR informed us it expected to hire only 225 ALJs in FY 2016. According to ODAR management, although ODAR continued to maximize ALJ hiring, the actual hires in the first half of FY 2016 fell short of ODAR's expectations due to budget issues and the number of certifications received from OPM.

<sup>12</sup> ODAR managers estimated the staff-to-ALJ ratio would be about 4.2:1 by the end of FY 2016 if the hiring freeze remained in place. The attrition rate for support staff was about 6.5 to 7 percent, compared to 5.6 to 6 percent for ALJs.

Of the 13 past initiatives from the January 2016 CARES plan, the remaining 3 were part of SSA's 2015 Critical Eight Priorities plan, but not part of the 2007 plan. The 2015 initiatives in the CARES plan are (1) pre-hearing conferences, (2) online Appeals Council (AC) Requests for Review, and (3) enhanced communication. At the time of this review, too little time had transpired for OIG to determine the potential effect of these initiatives on the backlog.

### *New Initiatives in the Original CARES Plan*

The January 2016 CARES plan contained eight new initiatives that were not part of SSA's earlier backlog reduction plans.<sup>13</sup>

1. 1,000+ Page Case Review
2. Optimized Case Assistance Center Model and Virtual Hallway
3. Natural Language Processing
4. Collaboration Plan for Office of Quality Review and ODAR
5. Adjudication Augmentation Strategy
6. Compass Program<sup>14</sup>
7. Expand Telework<sup>15</sup>
8. Leadership Training

For example, under the Adjudication Augmentation Strategy, an Administrative Appeals Judge (AAJ) would temporarily decide two types of cases normally decided by an ALJ—non-disability cases<sup>16</sup> and cases that would have otherwise been remanded to an ALJ. Agency managers estimate that these two workloads related to about 3.6 percent of pending cases. ODAR

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<sup>13</sup> The eight new initiatives related to three of the four areas—the information technology innovations were not represented. We define all the CARES initiatives in Appendix B.

<sup>14</sup> The Compass Program initiative is an internal ODAR development program, covering all positions and grade levels, to attract, retain, and develop employees for technical, management, and leadership positions. Please see Appendix B for additional information on this initiative.

<sup>15</sup> In March 2016, ODAR management told us that their component already met the telework goal of 60 percent employee participation under the collective bargaining agreement.

<sup>16</sup> In a May 2016 hearing, an SSA official defined non-disability cases as an appeal of an initial eligibility determination on non-disability issues such as, but not limited to the following: (1) insured status; (2) age; (3) citizenship; (4) income; (5) living arrangement; (6) resources; (7) relationship (marital, paternity, adoptions, other); (8) retirement factors; (9) nonpayment of benefits because of failure to furnish proof of a Social Security Number; (10) alleged misinformation deterring an applicant from filing for benefits; (11) application of an offset (windfall elimination provision, government pension offset, public disability benefit, workers compensation, other); (12) cessation based on work activity; and (13) overpayments. *Examining Due Process in Administrative Hearings: Homeland Security and Government Affairs Subcommittee on Regulatory Affairs and Federal Management*, 114<sup>th</sup> Cong. (May 12, 2016) (statement for the record of Theresa Gruber, SSA Deputy Commissioner for Disability Adjudication and Review).

management believed the *Social Security Act* provided sufficient support for this shift in workloads.<sup>17</sup> However, a Senate subcommittee expressed concerns about this new strategy,<sup>18</sup> stating, “SSA’s newfound policy also raises procedural issues—given the magnitude and potential economic effect of SSA’s proposed reinterpretation of its own rule here.”<sup>19</sup> The subcommittee Chairman asked SSA managers to provide more information about these proposed changes. In August 2016, ODAR informed us that this initiative would not move forward as originally envisioned due to budgetary resource issues. ODAR noted that to the extent possible and when appropriate, the AC will develop the record as needed and issue decisions in cases in which the claimant has previously had a hearing before an ALJ.

### **Initiatives Added After CARES Plan Issued**

Between January and June 2016, ODAR added six initiatives to the CARES plan.<sup>20</sup>

1. Case Processing Unification
2. New Report Category in the Disability Adjudication Reporting Tools
3. DeDoop<sup>21</sup>
4. Electronic Records Express Uploads Without Barcodes
5. Hearing Office Case Analyst Pilot
6. Large Hearing Office Organizational Remodel

For example, the Hearing Office Case Analyst position is a 2-year pilot to create a GS-9 position that builds on the duties of the GS-8 Legal Assistant Position.<sup>22</sup> ODAR management stated this initiative will help test job duties and assist ODAR in creating a more engaged workforce that

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<sup>17</sup> Specifically, SSA cited 20 C.F.R. §§ 403.709, 404.956, 404.967, 404.970, 404.976, 404.979, 404.983, 416.1456, 416.1467, 416.1470, 416.1476, 416.1479, and 416.1483. SSA provided these citations as part of the hearing statement, *Examining Due Process in Administrative Hearings: Homeland Security and Government Affairs, Subcommittee on Regulatory Affairs and Federal Management*, 114<sup>th</sup> Cong., Attachment C (May 12, 2016) (Summary of Legal Authority for Agency Augmentation Strategy).

<sup>18</sup> Although ODAR briefed Congress several times both before and after it released the CARES plan, ODAR did not brief the Senate members on the Committee on Homeland Security and Governmental Affairs.

<sup>19</sup> *Examining Due Process in Administrative Hearings: Homeland Security and Government Affairs, Subcommittee on Regulatory Affairs and Federal Management*, 114<sup>th</sup> Cong. (May 12, 2016) (opening statement of Chairman James Lankford, Senator of the United States).

<sup>20</sup> We determined that five were new initiatives, while the ODAR CARES Disability Adjudication Reporting Tools initiative related to a previous initiative. We defined all the CARES initiatives in Appendix B.

<sup>21</sup> Relates to eliminating duplicate evidence in the case folder.

<sup>22</sup> ODAR management noted that all promotions are temporary, not to exceed 2 years, with an option to extend or make permanent.

can bring the organization greater innovation, productivity, and performance. For instance, ODAR envisioned moving workloads to this position, such as processing fee petitions/agreements, conducting office-specific quality reviews, and helping prepare non-disability cases for hearings. According to ODAR managers, they have begun developing an evaluation plan for this pilot.

### ***Earlier Initiatives Not Specifically Mentioned as Initiatives in the CARES Plan***

We also determined there were 23 initiatives from the 2007 plan, 2015 Critical Eight Priorities plan, or both plans that were not specifically mentioned in the CARES plan, though the Agency stated they were new or ongoing initiatives in the summer of 2015.<sup>23</sup> According to ODAR, 18 of these initiatives were ongoing, with some now part of ODAR's standard business practices. For example, at the time of our audit, SSA regarded the 2007 plan's Reduced Aged Cases initiative<sup>24</sup> as a standard business practice to eliminate the oldest cases in the backlog. Another initiative proposed in the 2015 Critical Eight Priorities plan called for closing the record at least 5 days before a hearing. While this 2015 initiative was not specifically set aside as a CARES initiative, it was referred to as part of long-term plans related to "improvements in rulemaking." Moreover, in July 2016, ODAR proposed changes to the process of closing the record in a Notice of Proposed Rule-Making.<sup>25</sup>

### **Lessons Learned from Past Initiatives**

In prior years, we conducted numerous reviews of SSA's 2007 plan initiatives and found mixed results related to their implementation. For instance, we found the Reduced Aged Cases and National Hearing Center initiatives were successful in assisting SSA with old and backlogged hearing cases.<sup>26</sup> However, other initiatives did not have the same success, which may offer SSA some lessons learned as it designs and implements CARES plan initiatives, including

- establishing baseline data so the Agency can determine whether an initiative is having the intended effect;
- ensuring sufficient oversight of the initiatives;
- using pilots to test initiatives;

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<sup>23</sup> These initiatives do not include those that ODAR completed or terminated from the earlier plans.

<sup>24</sup> SSA, OIG, *Aged Claims at the Hearing Level* (A-12-08-18071), September 2009, p. 2.

<sup>25</sup> *Notice of Proposed Rulemaking: Ensuring Program Uniformity at the Hearing and Appeals Council Levels of the Administrative Review Process*, 81 Fed. Reg. 45,079, 45,087 (July 12, 2016) (to be codified at 20 C.F.R. chapter III parts 404, 405, and 416).

<sup>26</sup> SSA, OIG, *The Role of the National Hearing Centers in Reducing the Pending Hearings Backlog* (A-12-11-11147), April 2012, p. 13; and *Aged Claims at the Hearing Level* (A-12-08-18071), September 2009, p. 19.

- communicating with internal and external parties on the initiative particulars and providing a point of contact for questions;
- reviewing all relevant legal issues before moving forward with an initiative;
- maintaining and monitoring MI to ensure the initiative is operating as anticipated; and
- generating reliable cost and savings data related to the initiatives.<sup>27</sup>

## **Internal and External Communication**

We found that, although ODAR shared the CARES plan internally with components and employees, it did not share the complete plan with the public. For example, ODAR told us that it had briefed all Agency leadership before it released the CARES plan, including the Offices of the General Counsel, Quality Review, and Operations. ODAR managers also briefed SSA employee unions and manager associations prior to the plan’s release.<sup>28</sup> Additionally, SSA shared the CARES plan with all ODAR employees on January 13, 2016. At that time, the Deputy Commissioner of ODAR noted, “We consider the CARES plan a living document, which will change as we gain more experience with each initiative, begin new initiatives, and adapt to the changes in our operational environment.”

ODAR did not immediately share the CARES plan with the public. SSA’s *Social Security Update* Internet page announced the release of the CARES plan in January 2016. However, the publication did not describe the specific CARES initiatives. It was not until a congressional hearing in May 2016—4 months after ODAR issued the CARES plan internally—that the entire plan was made available to the public as part of the testimony. Even then, the plan made public in May 2016 did not include the six initiatives added since January 2016. We believe ODAR should ensure internal and external parties have access to an updated CARES plan to improve the transparency of Agency actions to reduce the hearings backlog.

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<sup>27</sup> We provide more information on these earlier reports in Appendix C.

<sup>28</sup> ODAR noted it met with the American Federation of Government Employees, the National Treasury Employees Union, the Association of ALJs, the Association of Hearing Office Chief Judges, and the ODAR Managers Association.

## **Strategic Planning and CARES**

We believe elements of the CARES plan should also be integrated into the Agency's strategic plan. As we noted in our September 2015 report on the hearing backlog,

SSA's 2014-2018 [Agency] 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.<sup>29</sup>

In our opinion, the CARES plan represents a tactical plan that needs to be linked to the Agency's long-term strategies as well as its performance measures.

## **Measurement and Monitoring**

ODAR was still developing its baseline data for the initiatives at the time of our review. As we have noted in prior reviews, sufficient measurement and monitoring is also necessary to ensure current initiatives achieve intended results.<sup>30</sup> ODAR stated it plans to use an internal Website to monitor its progress on CARES initiatives.

SSA may be able to learn from earlier measurement and monitoring efforts to improve the CARES plan process. For example, as part of the 2007 plan, ODAR established the Disability Adjudication Review Evaluation System (DARES). According to SSA, DARES was a comprehensive tracking/monitoring system that provided

...a dashboard display of necessary management/decision support and risk information to ODAR officials, allowing them to effectively monitor and control the hearings backlog reduction initiatives and to determine the health of the overall hearings backlog reduction program at SSA. DARES also...offers web-based, parameter-driven reports that are based on the breakdown of ODAR workloads within the context of how they relate to key hearing backlog initiatives.

At the time, ODAR believed DARES would provide the necessary MI to determine whether the initiatives were achieving the intended results. In August 2009, at the Agency's request, we reviewed MI related to the 2007 plan before DARES was established.<sup>31</sup> In the report, we noted

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<sup>29</sup> SSA, OIG, *The Social Security Administration's Efforts to Eliminate the Hearings Backlog* (A-12-15-15005), September 2015, p. 10.

<sup>30</sup> See Appendix C for information on lessons learned from past initiatives.

<sup>31</sup> SSA, OIG, *Office of Disability Adjudication and Review Management Information* (A-07-09-29162), August 2009, p. D-2.

One of the primary concerns expressed by ODAR was that MI did not always allow executives to adequately plan for the future or to measure the results of certain business processes. For example, ODAR stated that it did not have sufficient MI to determine whether the backlog initiatives were achieving the intended results. Without such a process, SSA may have been expending limited resources on initiatives that had no impact or a negative impact on the hearings process.

In that review, we stated that, with DARES, ODAR would have sufficient MI available to monitor hearing office and employee productivity.

ODAR discontinued use of DARES at the end of FY 2014.<sup>32</sup> However, it may provide ODAR with a model for future MI efforts to establish goals and track the CARES plan initiatives. This would allow the Agency to report whether the CARES plan has achieved its goals for timeliness, dispositions, pending cases, and overall productivity. When we met with Agency officials to discuss our results, ODAR managers provided a sample fact sheet that they believe captured elements similar to information previously tracked in DARES, such the leader of the initiative, goals, implementation timelines, status information, and outcomes.

## CONCLUSIONS

The CARES plan provides the Agency with a number of options for tackling the growing backlog—some new and others that were developed and tested in earlier years. It is important that the Agency learn from these past efforts and build upon its successes. Agency managers informed us that they are reviewing lessons learned from prior initiatives, including those identified by OIG, as part of ODAR's ongoing planning and implementation of the CARES initiatives. It is also essential that the Agency communicate internally and externally with all affected parties, maintain a current plan so the Agency's backlog reduction efforts are transparent and understood by all parties, and incorporate the plan into its strategic planning process. Finally, the Agency needs to ensure it has sufficient baseline data and ongoing monitoring processes to determine whether the initiatives are achieving the intended results and limited resources have a positive impact on the hearings process.

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<sup>32</sup> The 2007 backlog reduction initiatives were designed to eliminate the backlog by FY 2013. The plan was initiated by former Commissioner Michael J. Astrue, who completed his term as Commissioner in February 2013. According to ODAR management, they did not maintain DARES because ODAR was no longer tracking those initiatives.

## **RECOMMENDATIONS**

To improve communication, planning, measurement, and monitoring associated with the CARES plan, we recommend SSA:

1. Complete its review of lessons learned from prior initiatives, including those identified in earlier OIG reports, so the current initiatives can avoid similar implementation issues.
2. Ensure internal and external parties have access to an updated CARES plan to improve the transparency of Agency actions to reduce the hearings backlog.
3. Incorporate the CARES plan elements into the Agency's strategic plan and related annual performance measures.

## **AGENCY COMMENTS**

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



Rona Lawson  
Assistant Inspector General for Audit

# *APPENDICES*

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

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To complete our review, we:

- Reviewed prior Office of the Inspector General reports related to earlier Agency initiatives.
- Reviewed relevant laws, regulations, policies, and procedures pertaining to the hearings backlog and related initiatives.
- Reviewed and compared the *Compassionate And REsponsive Service* (CARES) plan, 2007 plan to reduce the hearing backlog, and 2015 Critical Eight Priorities plan.
- Analyzed management information from the Case Processing and Management System (CPMS) for Fiscal Year 2006 through May 2016 on average processing time, cases pending at the hearing level, and available administrative law judges.
- Met with Agency managers in the Social Security Administration's Offices of Disability Adjudication and Review, Quality Review, and Office of Disability Determinations to obtain management assertions and discuss the initiatives in the CARES plan.

We conducted our review between February and June 2016 in Chicago, Illinois. We found the CPMS data used in this review to be sufficiently reliable to meet our objective. We relied on management assertions with respect to the planning and implementation of the initiatives described in this report. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Appendix B – SUMMARY OF CARES PLAN INITIATIVES

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The Social Security Administration's *Compassionate And REsponsive Service* (CARES) plan comprised 27 initiatives designed to eliminate the hearings backlog and decrease average processing times. We provided a description of the CARES plan initiatives as well as a comparison to the earlier plans in Table B-1.

**Table B-1: Description of Initiatives in the CARES Plan (as of June 2016)**

Number	Title	Objective	In the 2007 Plan to Reduce the Hearing Backlog	In the 2015 Critical Eight Priorities Plan
1	<i>Administrative Law Judge (ALJ) Hiring</i>	Hire additional ALJs to increase adjudicatory capacity.	Yes	Yes
2	<i>National Adjudication Team</i>	Increase the use of senior attorney adjudicators, where appropriate, to assist the hearings process.	Yes	Yes
3	<i>Pre-Hearing Conference Expansion</i>	Expand the use of pre-hearing conferences that explain the hearings process to, and better prepare, unrepresented claimants for their hearings.	No	Yes
4	<i>SmartMands</i>	Test the use of screening, data analytics tools, and predictive modeling in both hearing offices and the Appeals Council (AC) levels	Yes	Yes
5	<i>Targeted Virtual Assistance Team</i>	Provide additional staff time and assistance to heavily impacted or backlogged hearings offices.	Yes	Yes
6	<i>1,000+ Page Case Review</i>	Staff will perform additional preparation and review for cases with 1,000 pages or more of evidence before the ALJ review and hearing.	No	No
7	<i>Optimized Case Assistance Center Model and Virtual Hallway</i>	The Office of Disability Adjudication and Review (ODAR) will address support staff efficiency by strengthening and streamlining hearing office and centralized case assistance business process models. Through these efforts, ODAR plans to enhance information sharing among hearing offices, national hearing centers, and centralized case assistance centers. ODAR will pilot the use of collaborative technologies to facilitate a virtual team model through a concept called the Virtual Hallway.	No	No

Number	Title	Objective	In the 2007 Plan to Reduce the Hearing Backlog	In the 2015 Critical Eight Priorities Plan
8	<i>Proactive Quality</i>	To correct identified errors before a final decision is issued. ODAR is testing an in-line quality review process at the hearing level that promotes consistency and continuous improvement in case processing by ensuring (1) case files are properly prepared; (2) cases are properly scheduled; (3) the record is adequately developed; and (4) a legally sufficient draft decision is prepared.	Yes	Yes
9	<i>Natural Language Processing</i>	The AC is testing the use of Natural Language Processing to scan ALJ decisions for language that suggests a higher likelihood of an error so cases can be selected and identified for a pre-effectuation quality review.	No	No
10	<i>Expanding Video Hearings</i>	Expand the use of video hearings to balance workloads and eliminate service inequity across the country.	Yes <sup>1</sup>	Yes
11	<i>Medical Expert/Vocational Expert Access</i>	Provide online electronic folder access for medical and vocational expert contractors to eliminate staff time to produce compact disc copies of case folders.	Yes	Yes
12	<i>Eliminating Paper Folder Exceptions (Maintaining the Electronic Folder)</i>	Reduce the number of hearings level cases that turn into paper.	Yes <sup>1</sup>	Yes
13	<i>iAppeals for the AC</i>	Develop an online AC Request for Review (iAppeals for AC) that will eliminate paper Requests for Review, reduce the potential for lost cases, and improve the efficiency of the AC's business process.	No	Yes
14	<i>Collaboration Plan for Office of Quality Review and ODAR</i>	Collaborate with the Office of Quality Review, which will assist ODAR in critical case processing activities. Agency management stated this initiative will not continue past Fiscal Year 2016 due to limited budgetary resources.	No	No
15	<i>Adjudication Augmentation Strategy</i>	Use AC administrative appeals judges to hold hearings and issue decisions on a subset of cases usually processed by ALJs. In August 2016, ODAR stated that this initiative would not move forward as originally envisioned due to budgetary resource issues. ODAR noted that to the extent possible and when appropriate, the AC will develop the record as needed and issue decisions in cases in which the claimant has previously had a hearing before an ALJ.	No	No

Number	Title	Objective	In the 2007 Plan to Reduce the Hearing Backlog	In the 2015 Critical Eight Priorities Plan
16	<i>Capacity and Co-Location Plan</i>	Co-locate hearing and field offices and continue adding “shared services” rooms in field offices allowing claimants to participate in an ALJ hearing from the convenience of the local field office, repurpose vacant space that is already federally owned or leased for the hearings operation, and make more efficient use of existing ODAR space.	Yes	Yes
17	<i>Enhance Communication</i>	Enhance communication and help build a shared set of goals across ODAR.	No	Yes
18	<i>Compass Program</i>	Implement an internal ODAR development program, covering all positions and grade levels, to attract, retain, and develop employees for technical, management, and leadership positions. All training and assignments will be virtual due to budgetary resources.	No	No
19	<i>Expand Telework</i>	Increase availability for telework under current collective bargaining agreements. In March 2016, ODAR management stated that their component already met the telework goal of 60 percent employee participation under the collective bargaining agreement.	No	No
20	<i>Leadership Training</i>	Providing standard training across ODAR to enhance leadership among ODAR management. Training will be provided in person and virtually due to budgetary reasons.	No	No
21	<i>Reduce CD Burning in Hearing Offices</i>	Mandating claimant representatives with direct pay fee agreements to access the electronic folder online.	Yes	Yes
<b>Initiatives Issued After the Release of the Original Plan in January 2016</b>				
22	<i>Case Processing Unification</i>	Increase the number of hearings held in a specific geographic/metropolitan area. Hearing offices in close geographic proximity will unify case processing tasks to strengthen overall day-to-day hearings office operations, and increase case processing efficiencies which, in turn, will improve customer service.	No	No

Number	Title	Objective	In the 2007 Plan to Reduce the Hearing Backlog	In the 2015 Critical Eight Priorities Plan
23	<i>ODAR CARES - New Report Category in Disability Adjudication Reporting Tools</i>	Provide a quick report for managers to focus on specific areas that may reduce the wait time or overall hearings pending.	Yes <sup>1</sup>	Yes
24	<i>DeDoop</i>	Using software, identify duplicate evidence to enable an efficient and effective review of the case folder.	No	No
25	<i>Electronic Records Express Uploads Without Barcodes</i>	Save time for the hearing office staff by automating the process of associating the document with the correct case. Initiative will allow registered eFolder users to upload documents into the eFolder without using a barcode/request identification.	No	No
26	<i>Hearing Office Case Analyst Pilot</i>	Explore improving career paths for lower-graded employees. The Hearing Office Case Analyst initiative is a 2-year pilot program. It is a GS-9 position that builds upon the duties of the GS-8 Legal Assistant Position. The Pilot fits into the broader CARES plan aimed at creating a highly engaged workforce to increase innovation, productivity, and performance—elements that are critical to serving the public and meeting the demands of growing workload. All training will be virtual because of budgetary resources.	No	No
27	<i>Large Hearing Office Organizational Remodel</i>	Research and analysis of the large hearing office structure to provide recommendations on efficiencies that could be made in staffing ratios.	No	No

**Note 1:** This was an ongoing initiative in the 2015 Critical Eight Priorities plan and the CARES plan, but considered completed in the 2007 plan.

## **Appendix C – LESSONS LEARNED FROM PAST INITIATIVES**

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In prior years, we conducted numerous reviews of the Social Security Administration's (SSA) 2007 plan to eliminate the backlog of hearings requests. Our findings may provide useful lessons learned as the Agency implements the new *Compassionate And REsponsive Service* (CARES) plan initiatives. We discuss some of these findings below.

### **ePulling**

We reviewed the Electronic File Assembly (ePulling)<sup>1</sup> pilot under the 2007 plan initiatives, which was designed to automate the process of organizing hearing-related documents in the electronic folder. We identified a number of concerns with the process. For example, Office of Disability Adjudication and Review (ODAR) managers did not know how long it took to prepare a case under the manual process, so it was difficult to determine whether ePulling was assisting with productivity. As a result, we recommended ODAR perform an assessment to ensure ePulling would not adversely affect file preparation time or any other aspect of the hearings process.<sup>2</sup> The Agency agreed and stated it was working with a contractor to identify assessment metrics. However, ODAR eventually decided to terminate the pilot.

### **Senior Attorney Adjudicators**

As noted earlier in this report, the Agency allowed senior attorney adjudicators (SAA) to conduct on-the-record (OTR) decisions if the evidence in the hearing record supported a finding in the claimant's favor, based on a preponderance of the evidence, without holding a hearing. During Fiscal Years (FY) 2008 through 2013, over 600 SAAs issued about 200,000 OTR decisions.<sup>3</sup> However, the Agency's review of SAA decisions began to reveal quality concerns.<sup>4</sup> Consequently, ODAR placed tighter restrictions on the OTR workload in FY 2013 because it was concerned the decisions lacked sound quality.<sup>5</sup> In April 2015, ODAR established the National Adjudication Team pilot where 21 SAAs processed OTRs nationwide and other ODAR staff performed quality reviews of the decisions before effectuation. While the SAAs decided as many as 54,000 OTRs in FY 2010, the number dropped to about 600 OTRs in FY 2015 under the pilot, though the Agency expected the new process to slowly increase its output.

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<sup>1</sup> ePulling was a term used for electronic pulling or file assembly.

<sup>2</sup> SSA, OIG, *Electronic File Assembly* (A-07-09-19069), June 2009, p. 8.

<sup>3</sup> In a June 2013 report, we recommended that SSA evaluate the benefits of conducting focused quality reviews on administrative law judges (ALJ) and SAA OTR decisions using a consistent set of criteria so results are comparable, common OTR issues identified, and appropriate training developed. SSA, OIG, *Effects of the Senior Attorney Adjudicator Program on Hearing Workloads* (A-12-13-23002), June 2013, pp. 11-12.

<sup>4</sup> SSA, Office of Quality Performance, *Review of Senior Attorney Advisor Disability Decisions: Midyear 2012*, December 2012. The Office of Quality Performance later became the Office of Quality Review.

<sup>5</sup> SSA, OIG, *The Social Security Administration's Efforts to Eliminate the Hearings Backlog* (A-12-15-15005), September 2015, p. 4.

## Representative Video Project

We also reviewed ODAR's Representative Video Project (RVP)<sup>6</sup> under the 2007 plan's Video Hearing backlog initiative, which allowed representatives and claimants to attend video hearings at claimant representatives' offices while the ALJ was at another location. We had a number of concerns related to internal and external communication. For instance, the majority of the RVP participants asked for a designated point of contact in ODAR to address questions about the program. We also found the Agency did not conduct a test or pilot of RVP before its nation-wide implementation or monitor relevant RVP trends, such as low use by participants. Finally, during the audit, some of the parties we interviewed raised potential legal issues related to RVP. We recommended enhanced communications and monitoring, and the Agency agreed. The RVP initiative was still ongoing at the time of our review.

## Video Hearings

SSA has used video hearings for many years to increase its ability to handle aged and backlogged hearing requests. The Agency has also noted that video hearings improve case processing times and reduce Agency travel costs. However, our 2012 report<sup>7</sup> found that the Agency was limited in its ability to separately measure and identify video hearing costs. SSA hired an outside contractor to assist with this measurement, and we found the contractor made errors in its estimates, overestimating video hearing savings by a factor of at least five. For instance, the contractor estimated annual savings of \$59 million, and we later found the savings were more likely to be \$5.2 million to \$10.9 million, annually.<sup>8</sup>

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<sup>6</sup> SSA, OIG, *Representative Video Project* (A-05-09-19101), August 2011, p. 1.

<sup>7</sup> SSA, OIG, *Congressional Response Report: Current and Expanded Use of Video Hearings* (A-05-12-21287), June 2012, p. 3.

<sup>8</sup> Id. The Administrative Conference of the United States relied on this contractor estimate when recommending video hearings to other agencies and overestimated SSA's savings over a 10-year period by about \$500 million.

## **Appendix D – AGENCY COMMENTS**

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### **SOCIAL SECURITY**

#### **MEMORANDUM**

Date: September 23, 2016 Refer To: S1J-3

To: Gale Stallworth Stone  
Acting Inspector General

From: Frank Cristaudo  
Counselor to the Commissioner

Subject: Office of the Inspector General Draft Report, “Compassionate And REsponsive Service Plan to Reduce Pending Hearings” (A-05-16-50167)--INFORMATION

A handwritten signature in black ink, appearing to read "Frank Cristaudo".

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,  
“COMPASSIONATE AND RESPONSIVE SERVICE PLAN TO REDUCE PENDING  
HEARINGS” (A-05-16-50167)**

Thank you for the opportunity to comment on the draft report.

We are committed to reducing the wait time on all hearings and have developed initiatives to help with our growing workloads. In January 2016, we launched the plan for Compassionate and REsponsive Service (CARES). CARES is a multi-faceted plan to address the increase in pending hearings that takes into account our current operating environment and serves as a blueprint for short-term and future changes. Some of the initiatives target ways we assist offices with specific workload challenges. Our plan includes several complementary initiatives relating to quality, business process efficiencies, regulatory changes, and employee engagement. Setbacks in administrative law judge (ALJ) hiring pose a serious challenge to reducing the number of pending hearings. We rely on the Office of Personnel Management (OPM) to provide us with a sufficient number of qualified ALJ applicants for more than 160 hearing locations across the country. To achieve the intended results outlined in the CARES plan, we need a larger, and continually updated, list of qualified ALJ candidates from OPM and adequate sustained funding from Congress.

As stated in the CARES plan, over the years we have successfully implemented many initiatives, highlighted in various plans, to reduce the number of hearings pending. Despite these successes, external factors have continued to have a direct impact on our lack of progress in reducing the number of hearings pending. The CARES plan builds on successful initiatives from past efforts and renews our commitment to finding new strategies to dramatically reduce the wait times for the public and reduce the number of pending cases. However, as noted above, the plan will not have a significant impact on the more than one million people waiting for a disability hearing decision without adequate and sustained funding.

Below are our responses to the recommendations.

**Recommendation 1**

Complete its review of lessons learned from prior initiatives, including those identified in earlier OIG reports, so the current initiatives can avoid similar implementation issues.

**Response**

We agree. We will continue to review lessons learned from prior initiatives to ensure CARES activities are achieving the intended results. This includes our methods of tracking milestones and outcomes for CARES initiatives.

## **Recommendation 2**

Ensure internal and external parties have access to an updated CARES plan to improve the transparency of Agency actions to reduce the hearings backlog.

### **Response**

We agree. We will continue to update the CARES plan website to provide transparent information internally to our employees. Additionally, we will work with the Office of Communications to share the CARES plan externally on the public facing SSA website.

## **Recommendation 3**

Incorporate the CARES plan elements into the Agency's strategic plan and related annual performance measures.

### **Response**

We agree. As an agency, we are just beginning discussions for the next Agency Strategic Plan (ASP) as the current ASP continues through FY 2018. We will consider including attributes of the CARES plan in the future ASP. We will also continue to include attributes of the CARES plan in our outward facing annual performance documents.

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