
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**SENIOR ATTORNEY
ADJUDICATOR PROGRAM**

July 2011

A-12-10-11018

AUDIT REPORT



Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

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- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

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SOCIAL SECURITY

MEMORANDUM

Date: July 29, 2011

Refer To:

To: The Commissioner

From: Inspector General

Subject: Senior Attorney Adjudicator Program (A-12-10-11018)

OBJECTIVE

Our objectives were to assess the role of the Senior Attorney Adjudicator (SAA) program in reducing the hearings backlog, and evaluate the factors that affected SAA performance.

BACKGROUND

On August 9, 2007, SSA issued an interim final rule¹ permitting SAAs to issue fully favorable on-the-record (OTR) decisions,² thereby conserving administrative law judge (ALJ) resources for the more complex cases that require a hearing. The SAA program is one of a number of Commissioner-led initiatives to reduce the hearings backlog. The program's purpose is to improve the disability determination process and increase adjudication capacity, using an approach similar to that of the SAA experiment of 1995 through 2000. SSA issued guidance for the SAA program in the interim final rule.³ Originally, the Agency included a provision to end the program on August 10, 2009; however, on July 13, 2009, the Agency extended the program for 2 additional years.⁴ The program was extended again on April 4, 2011, for another 2 years.⁵

¹ *Amendment to the Attorney Advisor Program*, 72 Fed. Reg. 44763 (August 9, 2007).

² SAAs review cases filed under Titles II and XVI of the *Social Security Act*, as amended. OTR decisions by SAAs do not require a formal hearing.

³ See footnote 1.

⁴ *Extension of Sunset Date for Attorney Advisor Program*, 74 Fed. Reg. 33327 (July 13, 2009).

⁵ *Extension of Sunset Date for Attorney Advisor Program*, 76 Fed. Reg. 18383, (April 4, 2011).

SAAs are compensated at the General Schedule-13 level. Since the SAA program was reestablished in August 2007, the Office of Disability Adjudication and Review (ODAR) made one modification to the SAA position description by adding the adjudication duty.⁶ SAA duties include rendering legal advice to ALJs, researching and developing cases for ALJs, writing decisions after hearings, screening cases and adjudicating fully favorable OTR decisions, and mentoring junior attorneys.⁷

As part of our methodology, we interviewed managers, ALJs, and staff in ODAR's Office of the Chief ALJ (OCALJ); four regional management teams; and hearing office managers, ALJs, and SAAs in nine hearing offices. We also reviewed national and regional statistics to analyze trends in SAA decisions.⁸

RESULTS OF REVIEW

In Fiscal Year (FY) 2010, 689 SAAs adjudicated approximately 54,000 decisions. When compared to FY 2008, this represents a 46-percent increase in the number of adjudicating SAAs and a 120-percent increase in the number of SAA decisions. SAA decisions represented about 7 percent of all ODAR dispositions in FY 2010. In terms of SAAs per office, we found the national average among hearing offices was one SAA for every two ALJs, though the ratios per individual hearing office varied widely. In addition, not all SAAs were actively adjudicating cases. For example, in our analysis of FY 2009 decisions, we found individual SAAs issued between 1 and 511 decisions. The SAA program has increased the number of adjudicators who can make timely decisions on cases, with SAA decisions taking an average of 165 days versus the national average processing time of 426 days for all cases in FY 2010. Moreover, according to the Agency's internal quality reviews, the SAA decisions were 96-percent accurate. Finally, we did not find a measurable difference in ODAR's allowance rate since the start of the SAA program.

The majority of the regional and hearing office managers we interviewed had a positive impression of the SAA program. The benefits cited by these managers included (1) higher hearing office productivity; (2) greater retention of attorneys; and (3) increased advancement opportunities for productive SAAs. Managers also cited areas that could be improved, including (1) clearly defined performance measures and related awards; (2) a consistent method for promotions; (3) more developed attorney adjudicator worksheets; and (4) maintaining a sufficient number of decision writers.

⁶ The Agency modified the SAA position description to add the adjudication duties upon the start of the SAA program. SSA added adjudication language to other hearing office positions that have authority to adjudicate claims, including attorneys who are hearing office directors (HOD) or group supervisors (GS) and regional attorneys.

⁷ See Appendix B for a description of these duties.

⁸ See Appendix C for a further discussion of our scope and methodology and Appendix D for our hearing office selection criteria.

SAA WORKLOAD TRENDS

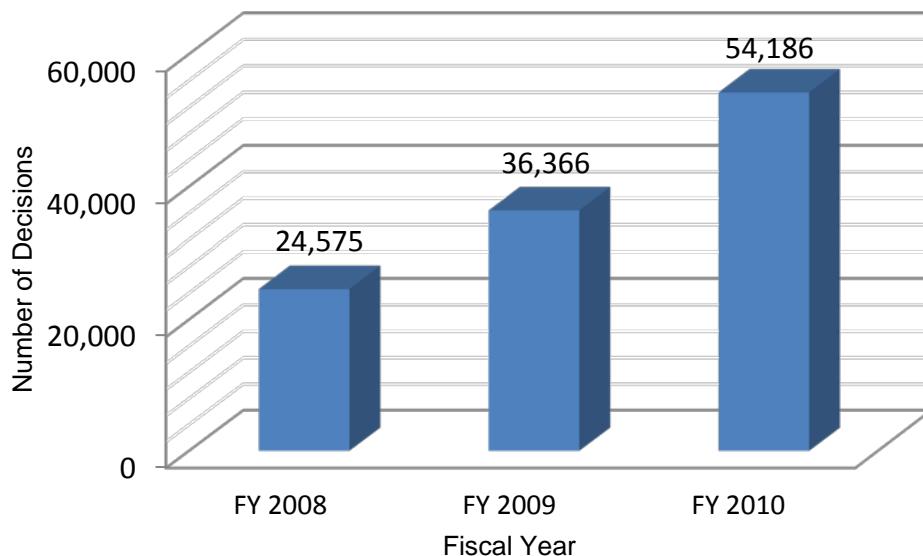
To understand the role of the SAA program as it relates to hearing backlogs, we reviewed SAA trends related to (1) number of decisions, (2) individual SAA workloads, (3) decisional timeliness, (4) decisional accuracy, and (5) allowance rates.

Number of Dispositions and SAA Positions

The number of SAA decisions increased by about 120 percent over a 2-year period, from 24,575 decisions in FY 2008 to 54,186 decisions in FY 2010 (see Figure 1).⁹

During the same period, the number of adjudicating SAAs increased by 46 percent, from 471 SAAs in FY 2008 to 689 SAAs in FY 2010.¹⁰

**Figure 1: Number of SAA Decisions
(FYs 2008 Through 2010)**



SAA decisions¹¹ represented over 7 percent of ODAR's national dispositions in FY 2010 (see Table 1). While ODAR was projecting its total national dispositions would rise from FYs 2011 to 2013, the number of SAA decisions was projected to decline from the

⁹ ODAR provided the SAA decision totals. We calculated slightly more SAA decisions when we compiled the SAA decision using ODAR's Case Processing and Management System (CPMS).

¹⁰ An adjudicating SAA has at least one OTR in a FY. Additional ODAR personnel may have the authority under the SAA program to adjudicate. For example, ODAR reported 715 SAAs in FY 2010, even though only 689 issued at least 1 OTR during the FY. Hence, about 4 percent of the SAAs did not issue an OTR in FY 2010.

¹¹ SAAs issue only fully favorable OTR decisions.

FY 2010 level and continue to decrease through FY 2013.¹² Moreover, OCALJ managers told us that SAA positions will be added in the future.

**Table 1: SAA Decisions as a Percent of Total Dispositions
(FYs 2009 Through 2013)**

Workloads	Fiscal Year ¹					
	2008	2009	2010	2011	2012	2013
SAA Decisions	24,575	36,366	54,186	53,200	49,200	48,600
Total Dispositions ²	575,380	660,842	737,616	814,600	822,500	818,300
Percent of Total	4.3%	5.5%	7.4%	6.5%	6.0%	5.9%

Note 1: FYs 2011 through 2013 based on SSA projections.

Note 2: Total dispositions include ALJ and SAA decisions as well as ALJ dismissals. These workload figures were provided by ODAR management at the time of our review.

We spoke to ODAR managers to discuss the anticipated decrease in SAA decisions after FY 2010. The managers stated that when the SAA program began, ODAR had many older cases (900 days and older). SAAs began by screening the older cases and were able to issue OTR decisions on those claims where updated medical evidence indicated the claimant's medical condition had worsened. However, as ODAR continues to work down the backlog and the processing time approaches the goal of 270 days, SAAs will be screening cases recently decided by DDS offices, and less time will have elapsed during which a medical condition may have worsened. As a result, while the SAA screening process is expected to continue identifying claims that can be decided as OTRs, ODAR managers expect such cases to be less prevalent. Our own analysis of the SAA decisions, discussed in a later section and Appendix G, indicates aged cases do not appear to be a significant part of the SAA workload.

SAAs per Hearing Office

Hearing offices had between one and nine SAAs at the end of FY 2009.¹³ We interviewed OCALJ managers about how ODAR decides which hearing offices need SAAs and how many need to be hired. The managers told us that SAA hiring decisions are based primarily on hearing office workload; hearing offices with greater workloads required more SAAs. However, in our review of the SAAs hired in FY 2009, we could not always find a clear relationship between a hearing office's size and the number of SAAs, even though one would expect a larger office to have a greater need for additional SAAs. For instance, the Savannah, Georgia, Hearing Office had 2 SAAs for

¹² For updated projections since we conducted our review, see our June 2011 report, *Congressional Response Report: The Office of Disability Adjudication and Review's Hearings Backlog and Processing Times* (A-12-11-21192).

¹³ See Appendix F for a listing of the number of SAAs and SAA decisions per hearing office.

every 10 ALJs, a ratio of 0.2:1, while the Atlanta North, Georgia, Hearing Office had 8 SAAs for every 10 ALJs, a ratio of 0.8:1. Both Offices served the same State and are of similar size, but the use of their SAA program varied widely.

While ODAR managers in the regions had varying statements on whether ODAR Headquarters provided SAA ceilings, in general, these managers agreed that the number of SAA promotions was based on the number of qualified attorneys in an office, which may lead to variations in the SAA-to-ALJ ratios. Philadelphia regional managers said hearings offices sometimes share the SAAs, so the SAA's specific location was not as important.

ODAR executives explained that with the implementation of the electronic folder, ODAR is moving to a national model for processing its workload. ODAR is electronically transferring claims from backlogged hearing offices to (1) other hearing offices nationwide, (2) National Hearing Centers (NHC),¹⁴ and (3) National Case Assistance Centers (NCAC) for processing.¹⁵ As a result of this new model, ODAR may focus more on ALJ staffing ratios at the regional rather than hearing office level.¹⁶

Individual SAA Workloads

We reviewed the SAA dispositions in FY 2009 to determine the number of decisions issued by each adjudicating SAA.¹⁷ The average number of decisions per SAA in FY 2009 was 57.¹⁸ For instance, about 21 percent of the SAAs issued over 100 OTR decisions, with 1 SAA issuing 511 OTR decisions (the highest count). During the same period, 124 SAAs (about 23 percent) issued 10 OTR decisions or fewer, with 30 SAAs issuing 1 OTR decision in FY 2009.

¹⁴ NHCs, which only conduct video hearings, operate in Albuquerque, New Mexico; Baltimore, Maryland; Chicago, Illinois; Falls Church, Virginia; and St. Louis, Missouri.

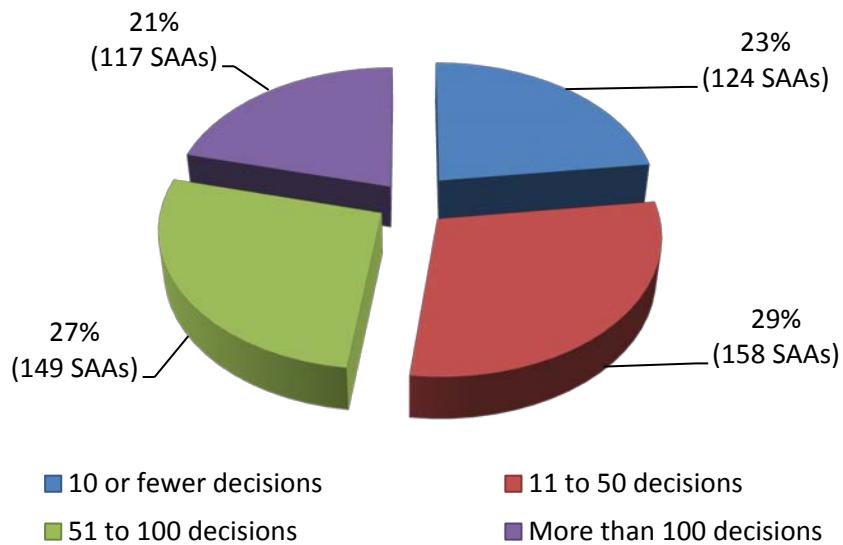
¹⁵ ODAR established two NCACs: a decision writing unit in McLean, Virginia, and a pulling and writing unit in St. Louis, Missouri.

¹⁶ Hearing offices already have national staffing ratio goals associated with decision writers and other support staff in relation to each ALJ. Senior attorneys are included in the decision writer to ALJ staffing ratio. See our February 2010 audit of *Hearing Office Performance and Staffing* (A-12-08-28088), where we note that the introduction of the SAA program has made it more difficult to calculate these ratios.

¹⁷ We used ODAR's FY 2009 CPMS *Closed Claims Database* as a source for the data. Complete FY 2010 data were not available at the time of our testing.

¹⁸ See Appendix G for more analysis of SAA decisional trends.

**Figure 2: Number of Decisions per SAA
(FY 2009)**



The low number of decisions among senior attorneys related to a number of factors, including the following.¹⁹

- SAAs promoted close to the end of FY 2009 did not have an opportunity to adjudicate many cases before the close of the FY.
- Management personnel, such as GSs,²⁰ can adjudicate cases periodically among other duties.
- Hearing office management may prefer to use an SAA to write decisions rather than adjudicate cases.

Some SAAs spend the majority of their time adjudicating decisions, based on hearing office needs or national programs, with a number of these cases coming from screening units. For example, an Office of Quality Performance (OQP) screening unit reviews cases based on specific criteria and cases meeting the criteria are referred to SAAs for possible OTR decisions. If the SAA agrees with the OQP recommendation, the SAA adjudicates the case. In addition, ODAR established the Virtual Screening Unit (VSU), which consists of up to 100 SAAs from around the country who work out of their home offices and review screened cases from other parts of the country, particularly cases

¹⁹ As we noted earlier, about 4 percent of the individuals with SAA authority in FY 2010 did not issue an OTR decision. We did not have SAA counts from ODAR for FY 2009 to make a similar calculation. However, these same factors would relate to an SAA issuing no OTR decisions in FY 2009.

²⁰ The GS is the first-line supervisor of the Attorney Advisor, the Paralegal Analyst, Lead Case Technician, Senior Case Technician, and the Case Technician. The GS directs all the activities of employees assigned to the group to ensure the efficient, timely and legally sufficient processing of hearing office cases. For a further discussion of hearing office position descriptions, see Appendix B in our audit report, *Hearing Office Performance and Staffing*, (A-12-08-28088), February 2010.

from backlogged hearing offices.²¹ According to Agency figures, SAAs in the VSUs had screened 50,000 cases and issued over 15,000 favorable decisions in FY 2010. Credit for the OTR disposition goes to the hearing office where the SAA is located, and not the hearing office where the case originated, thereby potentially boosting hearing office productivity where the SAA is located.

Timeliness of SAA Decisions

Cases decided by SAAs in FY 2010 took an average of 165 days to process, while SSA's reported national average processing time (APT) for a case was 426 days.²² Our review of ODAR's data demonstrates the average processing time for both SAAs and ALJs decreased between FYs 2008 and 2010, with the SAA program contributing to an overall lower processing time for all dispositions.²³

**Table 2: SAA and ALJ APTs
(FYs 2008 Through 2010)**

Fiscal Year	SAA Average Processing Time	ALJ Average Processing Time
2008	260 days	525 days
2009	240 days	506 days
2010	165 days	446 days

Note: ALJ dispositions include dismissals.

SAA decisions, like all OTR decisions, can be processed in less time for a number of reasons.²⁴ First, SAA OTR decisions do not require a hearing, which reduces the time needed to make a decision.²⁵ Second, SAAs can work newer cases where an OTR is appropriate. ALJs are often focused on the oldest cases²⁶ under the Commissioner's

²¹ SAAs who participate in the VSU receive 1 week of formal training. ODAR management may expand this formal training to all SAAs. Under the VSU initiative, SAAs show up to work at the local hearing office, but their case work is assigned by the VSU. The day-to-day supervisory structure of the SAAs remains in the local hearing office including time and attendance, monitoring workload, addressing PII issues, performance appraisals, and flexiplace.

²² ODAR does not break out the SAA APT in its performance measure. The hearings national APT includes the APT of ALJ decisions as well as SAA decisions. We calculated the APT for non-SAAs to be about 506 days in FY 2009, based on the data we had for SAA decisions and the total national dispositions.

²³ See Appendix G for timeliness information pertaining to each region.

²⁴ Before the SAA program, all OTRs would have been decided by an ALJ. As a result, the presence of the SAAs provided more focused resources on the same workload, allowing ALJs to handle those cases requiring a hearing. In this review, we did not evaluate whether fewer OTR cases in an ALJ's mix of cases led to longer processing time on the remaining cases.

²⁵ A number of additional steps are needed to conduct a hearing, including providing notice to the claimant 20 days before the planned hearing.

²⁶ For example, in FY 2009 ODAR was focusing on cases that would be 850 days old by the end of the FY. See our September 2009 report on this initiative, *Aged Claims at the Hearing Level* (A-12-08-18071).

Aged Claim initiative and in line with “first-in, first-out” (FIFO) policy, though they are not limited to hearing aged cases. For instance, ALJs also review newer cases for OTR decisions as well as giving hearing priority to cases defined as critical.²⁷

One HOD stated that SAAs were helping reduce her hearing office’s APT by reviewing the newer cases and medical evidence records as they come in. In August 2009, ODAR issued guidance recommending OTR screening focus on (1) claimants age 50 and older and (2) targeted impairment codes.²⁸ In the instructions, ODAR noted that selecting “targeted impairments” allows the user to generate a list of pending cases with impairments that result in a fully favorable decision 85 percent of the time.²⁹ In discussing this process with hearing office managers, we were told SAA cases were screened on a FIFO basis, consistent with other case workloads.

Accuracy Rates

The Agency’s internal reviews have shown a high level of accuracy in SAA decisions.³⁰ As of October 2010, OQP conducted six quality reviews of SAA decisions related to six different periods, and each reported an agreement rate of at least 94 percent (see Table 3). For example, OQP’s October 2010 quality review³¹ found that 94 percent of the SAA decisions was supported by a preponderance of the evidence. This October 2010 rate is a decrease from 98-percent decisional accuracy reported in FY 2008 and 96-percent decisional accuracy reported in FY 2009. However, this report covers only 6 months of FY 2010, and the results for the entire FY may change.³²

²⁷ For more on the FIFO process at ODAR, see our February 2011 report, *Congressional Response Report: Office of Disability Adjudication and Review’s Scheduling Procedures for Hearings* (A-12-10-20169).

²⁸ *Screening for Targeted Impairments*, memorandum issued by the Division of Workload Management, ODAR, August 14, 2009. See Appendix E for more information on the case characteristics decided by SAAs.

²⁹ *Id.*

³⁰ Decisional accuracy was a concern under the earlier SAA program and one of the reasons cited for ending the program. General Accounting Office, *Social Security Disability: Disappointing Results from SSA’s Efforts to Improve the Disability Claims Process Warrant Immediate Attention*, GAO-02-322, February 2002. See Appendix H for more on the earlier SAA program.

³¹ SSA, OQP, *Quality Review Assessment Report of Senior Attorney Advisor Disability Decisions, October 2009 – March 2010, Mid-Year Report*, October 2010. The report covers 506 decisions selected randomly each month and includes VSU cases.

³² OQP’s October 2010 report notes that the decrease from FY 2008 was statistically significant.

Table 3: SAA Decision Accuracy Rates

Period	Decisional Accuracy
November 2007 – December 2007	96 %
January 2008 – April 2008	97 %
May 2008 – September 2008	98 %
October 2008 – March 2009	96 %
April 2009 – September 2009 ¹	96 %
October 2009 – March 2010	94 %

Note 1: We calculated this rate since OQP issued a consolidated FY 2009 report.

In October 2010, OQP reported on its review of ALJ hearing decisions issued in FY 2009. OQP's report stated its evaluators found a 90-percent agreement rate for ALJ allowance decisions, and 89 percent for ALJ denial decisions. However, given that the ALJ cases can entail more evidence and more complex matters, these two rates are not necessarily comparable.

Allowance Rates

We reviewed ODAR's allowance rate before and after the SAA program was implemented in FY 2008 to determine whether the SAA OTRs led to an increase in allowances. We found that the allowance rate had remained relatively stable, averaging about 61 percent of dispositions over the 7-year period (see Table 4).³³

**Table 4: Dispositional and Decisional Allowance Rates
(FYs 2004 to 2010)**

FY	Dispositions	Decisions	Allowances	Dispositional Allowances	Decisional Allowances
2004	561,461	479,269	336,315	59.9%	70.2%
2005	605,003	518,489	377,625	62.4%	72.8%
2006	563,220	484,147	348,182	61.8%	71.9%
2007	547,951	471,762	340,036	62.1%	72.1%
2008	575,380	478,851	348,447	60.6%	72.8%
2009	660,842	557,771	403,980	61.1%	72.4%
2010	737,616	640,042	447,703	60.7%	69.9%

Note: Decisions are less than dispositions because they do not include dismissals. Allowance rates were calculated by dividing allowances in each year by the relevant base, be it dispositions or decisions.

³³ The decisional allowance rate also remained relatively stable at approximately 72 percent over this same period.

HEARING OFFICE ISSUES

To gain a better understanding of the SAA program, we spoke to managers, SAAs, and ALJs in nine hearing offices nationwide as well as management teams in four regional offices.³⁴ We specifically discussed those aspects of the SAA program that they found beneficial as well as areas that needed improvement.

SAA Benefits

During our interviews, managers at five of the nine hearing offices believed the *Senior Attorney Adjudicator* initiative had increased productivity.³⁵ The managers cited a number of benefits, including

- increased productivity that assisted the hearing office to meet or exceed its goals,
- retention of experienced attorneys, and
- additional advancement opportunities for talented SAAs.

One Hearing Office Chief ALJ (HOCALJ) told us that the SAAs in his hearing office were expected to handle 20 percent of the hearing office's workload, easily surpassing the hearing office's productivity goal. An HOD in another office stated that the SAAs were adjudicating between 50 and 135 cases per month. He stated the increased productivity and lower processing times allowed the hearing office to review newer cases more timely.

Another HOCALJ we interviewed believed the SAA program enabled the office to retain talented attorneys as well as create advancement opportunities for talented SAAs. For example, managers highlighted cases of productive SAAs advancing to an ALJ position in one region and regional attorney in another.

Management Concerns

We identified a few areas where the program could be improved, including

- performance measures and awards,
- method of promotions,
- attorney adjudicator worksheets, and
- decision writing.

³⁴ Regional management teams included the Regional Chief ALJ, Regional Management Officer, Regional Program Advisor, and Regional Director of Operations. Hearing office management teams included the HOCALJ, HOD, and GS(s). We spoke to four regional management teams, visited seven of the hearing offices, and spoke to the HODs in two additional hearing offices. See Appendix D for more on the offices contacted.

³⁵ Six of the nine hearing offices were selected because of a high number of SAA decisions.

Performance Measures and Awards

The hearing offices we visited lacked uniform performance standards for measuring SAA adjudicatory performance, even though ALJs performing adjudication duties had such standards. For example, ALJs had uniform productivity targets set by management. While ALJs do not have binding performance standards, OCALJ has asked them to strive to issue 500 to 700 legally sufficient decisions annually. In addition, many of these managers did not know how individual SAA performance tied back to the awards process.

In the absence of uniform performance measures, various hearing offices and regions had established targets and goals to evaluate SAA performance. For example, the Philadelphia Region had set a target for each SAA to produce at least eight OTRs per month, whereas the Atlanta Region had created a benchmark of 7 days for SAAs to review cases to determine whether they can be decided OTR. In the case of the VSU, the Philadelphia Region had a target of 20 to 40 OTRs per month for the SAAs working in the VSU. One Regional Chief Administrative Law Judge explained that he examined the overall productivity of SAAs in the region and then developed “stretch goals” for the SAAs. The stretch goals were based on the target numbers for SAAs and challenge SAAs to surpass those base numbers. According to this manager, the stretch goals allowed the Region to surpass 137 percent of its goal for SAA OTR decisions in FY 2009 and put them around 160 percent midway through FY 2010.

Since SAAs only decide favorable cases, we do not believe a goal for a set number of OTRs is appropriate, since it may simply encourage more allowances. In addition, unlike ALJs, the SAAs perform adjudication duties among their other duties, so an adjudication standard should only apply when they are performing adjudication duties. As a result, a more clearly defined adjudicatory standard for SAAs should be developed based on the number of cases screened rather than the number decided by OTR; and should only be applied when they are performing this function. In the same way, decision-writing measures should apply to SAAs while they are performing those duties. Finally, such measures should be flexible enough to allow management to reassign SAAs as required for the needs of the office but rigid enough to hold the SAAs accountable regardless of their duties. Managers at ODAR’s headquarters informed us that they are evaluating SAA productivity and expect to develop performance measures in the future.

ODAR managers in the offices we visited also noted that SAAs receive monetary awards based on their performance. However, most of the hearing office managers did not have a good understanding of the SAA awards process. For example, five of nine HODs we interviewed were unable to specify the criteria for the awards. When we spoke with managers at ODAR headquarters, they explained that most of the SAA awards were provided as part of the National Treasury Employee Union’s (NTEU) award process, which administered FY 2010 awards to NTEU bargaining unit employees in ODAR. The ODAR/NTEU Awards Panel, which is a combination of NTEU representatives and ODAR management, makes recommendations regarding

Recognition of Contribution (ROC) awards, On-the-Spot awards (OTS), and Commendable Act or Service (CAS) awards.³⁶ Relevant Regional Chief ALJs and HOCAJJs review ROC nominations and may grant or deny the award. The Awards Panel decides OTS and CAS awards and, as a result, the hearing office managers are more likely to be aware of the ROCs than the other two award types.

We believe uniform performance measures with a clearly defined awards process would provide ODAR managers with increased assurance that SAs evaluations are consistent within the organization.

Method of Promotions

We found that the process for promoting attorneys to SAAs positions varied at hearing offices, which led to some confusion among staff and managers. ODAR managers told us that they advertised some SAAs positions as competitive internal vacancy announcements,³⁷ while other SAAs positions were filled noncompetitively. Two of the 14 SAs we interviewed told us that they were promoted noncompetitively because they were SAs during the earlier SAAs experiment.³⁸ However, we interviewed two other SAs who were also in the earlier SAAs experiment but who were required to apply for the position. In addition, two hearing office managers stated they were informed about the promotions in their offices, but these managers were not certain about the criteria being used to support the promotions.

While ODAR management has flexibility when hiring and promoting attorneys,³⁹ we believe ODAR should take all necessary steps to ensure the hiring process for SAs is uniform, transparent, open, and fair for all interested and qualified parties. ODAR's Deputy Commissioner provided guidance on the SAAs hiring process to ensure ongoing hiring would be competitive. We requested a list from ODAR headquarters' staff indicating the number of SAAs positions filled and whether they were filled competitively

³⁶ ROC awards are generally \$700 to \$1,500, or an increase in step, whereas the CAS awards are generally \$200 to \$600 and OTS awards are generally \$50 to \$200.

³⁷ According to an internal vacancy announcement we reviewed, an applicant must be an attorney in good standing of the bar of the highest court of any State, the District of Columbia, commonwealth or territory of the United States. The applicant must submit an application along with two writing samples. In addition, the applicant must be an expert in SSA programs with direct knowledge and skills gained as an ODAR staff attorney.

³⁸ ODAR issued temporary promotions for attorneys to GS-13 senior attorney adjudicators during the 1990s program. When the 1990s program ended, the senior attorneys returned to GS-12 attorney positions. We reviewed personnel records for these two individuals and confirmed that both were promoted noncompetitively. For further discussion of the earlier SAAs program, see Appendix H.

³⁹ For example, SSA's Personnel Policy Manual, Management Officials Promotion Plan, Section 5.2—*Exceptions to Requirement for Competitive Procedure*, provides for noncompetitive promotions in certain circumstances as long as the candidates meet time-in-grade and basic qualification requirements.

or noncompetitively. ODAR staff stated that 20 of the attorneys temporarily promoted under the earlier SSA program were non-competitively promoted as part of the most recent SAA program.

Attorney Adjudicator Worksheets

Three of the six ALJs we interviewed commented that the SAA *Attorney Adjudicator Worksheets*, designed specifically for the SAA program⁴⁰ do not add any value to their subsequent review. Under current procedures, if SAAs cannot issue a fully favorable OTR decision, they should return the case to the hearing office for a hearing and an ALJ decision. As part of this process, SAAs are expected to provide notes for the ALJ on the worksheet. The worksheet contains a checklist regarding the status of the SAA review, including an assessment on the likelihood of an allowance once additional steps have been performed, as well as a section on the bottom of the sheet where the SAA can place case notes for the ALJ.

One ALJ we interviewed suggested that SAAs provide a summary of the medical information in the case. Another ALJ stated that SAAs provide notes most of the time, but the quality has varied depending on the time the SAA put into the notes. According to the HOICALJ at one hearing office, the earlier SAA program expected SAAs to provide more extensive analysis and notes to ALJs.⁴¹

Decision Writing

HOICALJs in three of the seven hearing offices we visited expressed concerns about the number of decision writers available to assist with the hearings workload since some of the promoted attorneys adjudicate cases instead of writing decisions. In a prior audit on hearing office staffing, we highlighted the need for additional decision writers as well as the need for a modified decision writer ratio that takes into account the SAA positions.⁴² In response to our report, SSA managers noted that they increased the decision writer-to-ALJ ratio for those offices with sufficient space. In addition, as noted earlier, the Agency established NCACs, including a decision-writing unit in McLean, Virginia, as well as a pulling and writing unit in St. Louis, Missouri. Regions have also established their own decision-writing units. One of the HOICALJs who expressed concern about the decision writer backlog stated the region's centralized decision-writing unit was assisting his hearing office with this backlog.

⁴⁰ See Appendix I for a sample of an *Attorney Adjudicator Worksheet*.

⁴¹ See Appendix H for more on the earlier SAA program.

⁴² SSA, OIG, *Hearing Office Performance and Staffing* (A-12-08-28088), February 2010.

CONCLUSION AND RECOMMENDATIONS

We noted increased growth in the number of SAAs and related OTR decisions. These additional resources and decisions have assisted the Agency efforts to issue timely decisions on cases that do not require a hearing while allowing the ALJs to focus on cases that are more difficult. In addition, we did not find a measurable difference in the allowance rate for hearings since the SAA program began. Our interviews with managers and staff indicate the SAA program can increase office productivity and morale. Our review of the program data as well as discussions with managers have also identified areas where clearer criteria, more uniform standards, and additional guidance would provide managers, ALJs, and staff in the hearing offices with an enhanced understanding of the SAA program and its role in the Agency.

To address concerns about the SAA program, we recommend SSA:

1. Establish uniform performance measures for SAAs to ensure workloads are processed consistent with clearly defined standards.
2. Link SAA awards to uniform performance measures and ensure hearing office managers understand the administration of the SAA awards process.
3. Provide managers and staff with clear criteria for all SAA promotions.
4. Provide SAAs with additional guidance and tools, such as a modified *Attorney Adjudicator Worksheet*, to ensure SAAs highlight pertinent case details when a case cannot be decided as an OTR.

AGENCY COMMENTS

SSA agreed with all our recommendations. See Appendix J for the Agency's comments.



Patrick P. O'Carroll, Jr.

Appendices

[APPENDIX A](#) – Acronyms

[APPENDIX B](#) – Senior Attorney Adjudicator Duties

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Appendix A

Acronyms

ALJ	Administrative Law Judge
APT	Average Processing Time
CAS	Commendable Act or Service
CPMS	Case Processing and Management System
FIFO	First-in, First-out
FY	Fiscal Year
GS	Group Supervisor
HOCALJ	Hearing Office Chief Administrative Law Judge
HOD	Hearing Office Director
NCAC	National Case Assistance Center
NHC	National Hearing Center
NTEU	National Treasury Employee Union
OCALJ	Office of the Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
OQP	Office of Quality Performance
OTR	On-the-Record
OTS	On-the-Spot
ROC	Recognition of Contribution
SAA	Senior Attorney Adjudicator
SSA	Social Security Administration
VSU	Virtual Screening Unit

Senior Attorney Adjudicator Duties

The senior attorney adjudicator's (SAA) primary duties are as follows.

- Render professional legal advice and assistance to the administrative law judges (ALJ) in prehearing development and preparation of cases for hearing, post-hearing development, and other post-hearing actions.
- Analyze, research, and develop cases that are reviewed for ALJ decisions.
- Write comprehensive decisions in the most legally complex cases for ALJ signatures after an ALJ hearing. ALJs provide instructions to SAAs on the content needed in each decision. SAAs¹ are responsible for providing an adequate draft decision that (1) is factually correct; (2) complies with the drafting instructions; (3) is prepared in a timely manner; (4) is persuasive; (5) properly analyzes the legal issue of the claim; (6) has proper spelling, punctuation, and grammar; and (7) includes an adequate rationale for each finding. SAAs also write dismissal decisions for Hearing Office Chief ALJs.
- Screen cases and adjudicate fully favorable on-the-record (OTR) decisions. SAAs can request additional evidence and prior files, or call claimant representatives and ask for updated medical evidence. SAAs cannot request that case technicians pull the claim before examining the case for an OTR. SAAs prepare the fully favorable decisions and have the authority to sign the decision. In those cases where a favorable decision cannot be issued, SAAs return the case to the hearing office for normal processing along with a summary sheet explaining why the claims could not be paid OTR.
- Mentor junior attorneys.

¹ Attorneys and paralegal employees in the hearing office perform decision writing duties. SAAs duties include writing the more complex case decisions.

Scope and Methodology

To accomplish our objective, we:

- Reviewed prior reports and studies conducted by the Social Security Administration's (SSA) Office of the Inspector General, Government Accountability Office, Social Security Advisory Board, and SSA's Office of Quality Performance.
- Reviewed relevant laws and regulations, as well as the Agency's policies and procedures, related to the Senior Attorney Adjudicator (SAA) program.
- Reviewed the status of the SAA initiative and other screening initiatives to reduce the hearings backlog. We also spoke to the Office of Disability Adjudication and Review's (ODAR) staff and managers about the Agency's experiences with the earlier SAA experiment.
- Reviewed the Agency's updated position descriptions for SAAs, which included their new adjudication duties.
- Reviewed the Case Processing and Management System's (CPMS) closed claim database for Fiscal Years (FY) 2008 and 2009 to determine the number of SAAs and SAA decisions in all the regions and hearing offices nationwide. We also reviewed Agency data pertaining to FY 2010 SAA positions and decisions.
- Analyzed the case characteristics of SAA decisions. We examined all the cases in FYs in 2008 and 2009 to determine the average age of the claimants. We also randomly selected 50 cases that were closed in FYs 2008 and 2009 to determine the impairments associated with the claimants.
- Interviewed staff and management in the Office of the Chief Administrative Law Judge, spoke with four Regional Management Teams,¹ visited seven hearing offices,² and spoke with management at two additional hearing offices³ to gain their opinion on the SAA program and observe how the program was being used in the different hearing offices (see Appendix D).
- Discussed our findings with ODAR staff and management.

¹ Regional Management Teams included the Regional Chief Administrative Law Judge, Regional Management Officer, Regional Program Advisor, and Regional Director of Operations.

² At the seven hearing offices we visited, we spoke to management teams that included the Hearing Office Chief Administrative Law Judge, the Hearing Office Director (HOD), and Group Supervisor(s). During these visits, we also spoke to administrative law judges and SAAs.

³ We spoke to the HODs.

We found the data used in our review to be sufficiently reliable to meet our audit objectives. We performed reliability testing of FY 2008 and 2009 data using the CPMS closed claims database. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We performed our review from February through December 2010 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 our 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 D

Hearing Office Selection Criteria

In Fiscal Year 2009, the Office of Disability Adjudication and Review had 140 hearing offices operating in the United States and Puerto Rico. Senior attorney adjudicator (SAA) usage and SAA productivity varied among the hearing offices. We identified hearing offices that had higher SAA usage and hearing offices that had lower SAA usage, based on the number of SAA decisions and SAs in the hearing office. See Tables D-1 and D-2.

**Table D-1: Hearing Offices with Higher SAA Usage
Fiscal Year 2009**

Region	Hearing Office	Number of SAAs	Average Number of Decisions per SAA	Total Number of SAA Decisions
Region III: Philadelphia	Philadelphia	9	85	762
Region V: Chicago	Orland Park	7	57	401
Region V: Chicago	Evanston	4	203	811
Region IV: Atlanta	Atlanta North	8	109	875
Region IV: Atlanta	Atlanta	5	142	711
Region X: Seattle	Seattle	8	160	1278

**Table D-2: Hearing Offices with Lower SAA Usage
Fiscal Year 2009**

Region	Hearing Office	Number of SAA	Average Number of Decisions per SAA	Total Number of SAA Decisions
Region III: Philadelphia	Philadelphia (East)	3	46	138
Region VI: Dallas	Tulsa	2	5	9
Region IX: San Francisco	Phoenix	6	9	52

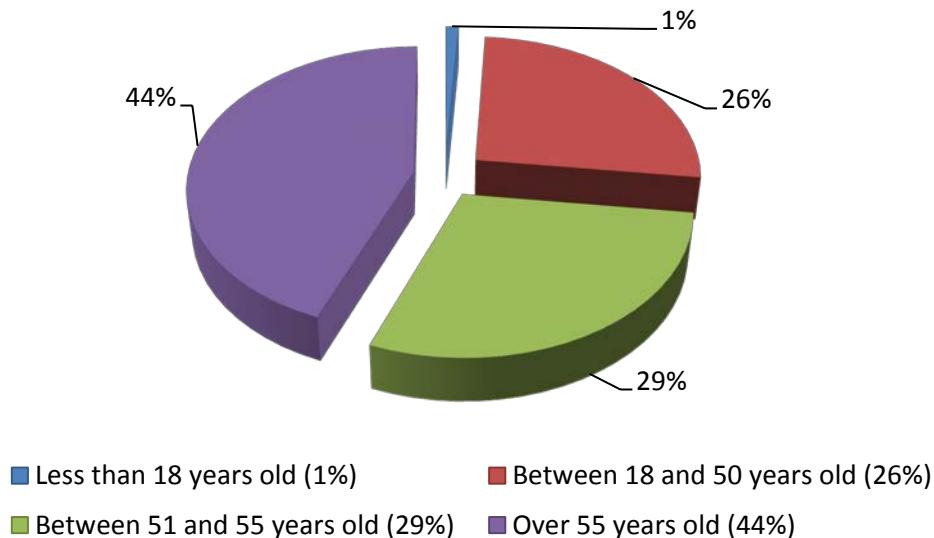
Characteristics of Senior Attorney Adjudicator Decisions

We reviewed senior attorney adjudicator (SAA) decisions in Fiscal Year (FY) 2009 to identify the age and disability of the claimant for cases allowed under this program.

AGE OF CLAIMANT

We found that 73 percent of the claimants were over age 50 (see Figure E-1), with the average age of the claimant being 51 years old in FY 2009. SAAs did not adjudicate many childhood cases. Only about 1 percent of SAA decisions were childhood cases.¹ We also analyzed the FY 2008 SAA decisions and the percentages were similar to FY 2009.

Figure E-1: Age of Claimants Among FY 2009 SAA Decisions



¹ The Social Security Administration's Office of Quality Performance performed a Quality Performance Review of SAA decisions and their findings on SAA case characteristics were very similar to ours.

In August 2009, the Office of Disability Adjudication and Review (ODAR) issued guidance recommending cases be screened for (1) claimants age 50 and older and (2) targeted impairment codes.² Managers at ODAR stated that the screening criteria for claims can also include (1) on-the-record requests from claimant representatives, (2) claimants' education level, and (3) claimants' past work history.

DIAGNOSIS CODES

We pulled a random sample of 50 cases decided by SAAs in FYs 2008 and 2009 and found that the primary diagnosis was a disorder of the back (17 of 50 cases).³ The next highest diagnoses were mental (seven cases) and arthritic (six cases) disorders. The remaining cases had various types of diagnoses.

² *Screening for Targeted Impairments*, memorandum issued by the Division of Workload Management, ODAR, August 14, 2009.

³ Back disorders are not one of the “targeted impairments” in the 2009 memorandum.

Senior Attorney Adjudicator Dispositions Per Hearing Office

**Table F-1: Senior Attorney Adjudicator (SAA) Dispositions per Hearing Office
(Fiscal Year 2009)**

Hearing Office	Region	Number of SAA	Number of ALJs	SAA to ALJ Ratio	Total Number of SAA Decisions	Average Number of Decisions per SAA
Philadelphia, PA	Philadelphia	9	10	0.90	762	85
Seattle, WA	Seattle	8	16	0.50	1278	160
Atlanta-North, GA	Atlanta	8	10	0.80	875	109
Oklahoma City, OK	Dallas	8	13	0.62	649	81
San Diego, CA	San Francisco	8	9	0.89	98	12
Cleveland, OH	Chicago	7	13	0.54	436	62
Jacksonville, FL	Atlanta	7	14	0.50	421	60
Orland Park, IL	Chicago	7	8	0.88	401	57
Raleigh, NC	Atlanta	7	12	0.58	400	57
Milwaukee, WI	Chicago	7	12	0.58	358	51
Cincinnati, OH	Chicago	7	13	0.54	327	47
Oakland, CA	San Francisco	7	8	0.88	303	43
New York, NY	New York	7	12	0.58	222	32
Columbus, OH	Chicago	7	11	0.64	211	30
Wilkes-Barre, PA	Philadelphia	7	11	0.64	207	30
Boston, MA	Boston	7	14	0.50	196	28
San Antonio, TX	Dallas	7	17	0.41	175	25
San Bernardino, CA	San Francisco	7	9	0.78	159	23
Orlando, FL	Atlanta	7	11	0.64	100	14
Dallas-Downtown, TX	Dallas	7	12	0.58	93	13
New Haven, CT	Boston	7	5	1.40	70	10
Houston, TX	Dallas	6	13	0.46	712	119
Knoxville, TN	Atlanta	6	11	0.55	570	95
Nashville, TN	Atlanta	6	9	0.67	547	91

Hearing Office	Region	Number of SAAs	Number of ALJs	SAA to ALJ Ratio	Total Number of SAA Decisions	Average Number of Decisions per SAA
Denver, CO	Denver	6	11	0.55	487	81
Tampa, FL	Atlanta	6	14	0.43	449	75
Lexington, KY	Atlanta	6	8	0.75	437	73
Detroit, MI	Chicago	6	12	0.50	404	67
Charlotte, NC	Atlanta	6	11	0.55	296	49
Huntington, WV	Philadelphia	6	8	0.75	285	48
Orange, CA	San Francisco	6	8	0.75	248	41
Sacramento, CA	San Francisco	6	14	0.43	234	39
Creve Coeur, MO	Kansas City	6	11	0.55	219	37
Albany, NY	New York	6	8	0.75	202	34
Hattiesburg, MS	Atlanta	6	10	0.60	202	34
Oak Park, MI	Chicago	6	14	0.43	183	31
Bronx, NY	New York	6	7	0.86	165	28
Santa Barbara, CA	San Francisco	6	3	2.00	157	26
San Jose, CA	San Francisco	6	8	0.75	154	26
Long Beach, CA	San Francisco	6	6	1.00	147	25
San Rafael, CA	San Francisco	6	7	0.86	125	21
Stockton, CA	San Francisco	6	7	0.86	82	14
Portland, ME	Boston	6	5	1.20	79	13
Phoenix, AZ	San Francisco	6	9	0.67	52	9
Atlanta, GA	Atlanta	5	14	0.36	711	142
Greenville, SC	Atlanta	5	10	0.50	499	100
Oak Brook, IL	Chicago	5	7	0.71	444	89
Indianapolis, IN	Chicago	5	12	0.42	420	84
St. Louis, MO	Kansas City	5	11	0.45	352	70
Grand Rapids, MI	Chicago	5	7	0.71	345	69
Tupelo, MS	Atlanta	5	10	0.50	344	69
Elkins Park, PA	Philadelphia	5	10	0.50	309	62
Fort Lauderdale, FL	Atlanta	5	14	0.36	304	61
Miami, FL	Atlanta	5	11	0.45	296	59
Chattanooga, TN	Atlanta	5	11	0.45	266	53
Peoria, IL	Chicago	5	8	0.63	248	50

Hearing Office	Region	Number of SAAs	Number of ALJs	SAA to ALJ Ratio	Total Number of SAA Decisions	Average Number of Decisions per SAA
Buffalo, NY	New York	5	14	0.36	239	48
Alexandria, LA	Dallas	5	10	0.50	196	39
Downey, CA	San Francisco	5	5	1.00	183	37
Columbia, SC	Atlanta	5	9	0.56	168	34
White Plains, NY	New York	5	7	0.71	147	29
Roanoke, VA	Philadelphia	5	8	0.63	133	27
Los Angeles-W, CA	San Francisco	5	7	0.71	131	26
Las Vegas, NV	San Francisco	5	3	1.67	78	16
Little Rock, AR	Dallas	5	12	0.42	44	9
Evanston, IL	Chicago	4	10	0.40	811	203
Chicago, IL	Chicago	4	8	0.50	520	130
Albuquerque, NM	Dallas	4	9	0.44	507	127
Portland, OR	Seattle	4	10	0.40	413	103
San Juan, PR	New York	4	8	0.50	403	101
Mobile, AL	Atlanta	4	14	0.29	400	100
Syracuse, NY	New York	4	10	0.40	361	90
Kansas City, KS	Kansas City	4	11	0.36	345	86
Harrisburg, PA	Philadelphia	4	7	0.57	323	81
Salt Lake City, UT	Denver	4	6	0.67	309	77
Jericho, NY	New York	4	8	0.50	303	76
Louisville, KY	Atlanta	4	9	0.44	289	72
Baltimore, MD	Philadelphia	4	10	0.40	276	69
Middlesboro, KY	Atlanta	4	1	4.00	270	68
Charleston, SC	Atlanta	4	8	0.50	253	63
Jackson, MS	Atlanta	4	9	0.44	219	55
Birmingham, AL	Atlanta	4	16	0.25	187	47
Springfield, MA	Boston	4	6	0.67	186	47
Morgantown, WV	Philadelphia	4	9	0.44	180	45
Johnstown, PA	Philadelphia	4	7	0.57	164	41
Queens, NY	New York	4	7	0.57	164	41
Minneapolis, MN	Chicago	4	12	0.33	144	36
Norfolk, VA	Philadelphia	4	7	0.57	126	32

Hearing Office	Region	Number of SAAs	Number of ALJs	SAA to ALJ Ratio	Total Number of SAA Decisions	Average Number of Decisions per SAA
Fresno, CA	San Francisco	4	8	0.50	102	26
Hartford, CT	Boston	4	7	0.57	95	24
Tucson, AZ	San Francisco	4	5	0.80	95	24
Los Angeles-Downtown, CA	San Francisco	4	7	0.57	78	20
Honolulu, HI	San Francisco	4	1	4.00	65	16
Manchester, NH	Boston	4	8	0.50	61	15
Houston-DT, TX	Dallas	4	10	0.40	42	11
Newark, NJ	New York	4	12	0.33	36	9
Omaha, NE	Kansas City	4	4	1.00	34	9
Spokane, WA	Seattle	3	6	0.50	690	230
Eugene, OR	Seattle	3	7	0.43	383	128
Colorado Springs, CO	Denver	3	5	0.60	315	105
Florence, AL	Atlanta	3	7	0.43	291	97
Montgomery, AL	Atlanta	3	10	0.30	289	96
Billings, MT	Denver	3	5	0.60	282	94
Charlottesville, VA	Philadelphia	3	7	0.43	251	84
Greensboro, NC	Atlanta	3	10	0.30	235	78
Wichita, KS	Kansas City	3	7	0.43	224	75
San Francisco, CA	San Francisco	3	7	0.43	222	74
Pittsburgh, PA	Philadelphia	3	7	0.43	192	64
West Des Moines, IA	Kansas City	3	6	0.50	183	61
Dayton, OH	Chicago	3	7	0.43	171	57
New Orleans, LA	Dallas	3	10	0.30	158	53
Fargo, ND	Denver	3	5	0.60	151	50
Philadelphia-East, PA	Philadelphia	3	10	0.30	138	46
Voorhees, NJ	New York	3	7	0.43	135	45
Dallas-North, TX	Dallas	3	14	0.21	127	42
Richmond, VA	Philadelphia	3	5	0.60	116	39
Memphis, TN	Atlanta	3	10	0.30	69	23
Washington, D.C.	Philadelphia	3	5	0.60	63	21
Metairie, LA	Dallas	3	8	0.38	49	16
Brooklyn, NY	New York	3	12	0.25	41	14

Hearing Office	Region	Number of SAAAs	Number of ALJs	SAA to ALJ Ratio	Total Number of SAA Decisions	Average Number of Decisions per SAA
Charleston, WV	Philadelphia	3	9	0.33	36	12
Fort Worth, TX	Dallas	3	8	0.38	9	3
Mayaguez, PR	New York	2	1	2.00	321	161
Lansing, MI	Chicago	2	7	0.29	289	145
Savannah, GA	Atlanta	2	10	0.20	230	115
Kingsport, TN	Atlanta	2	8	0.25	218	109
Springfield, MO	Kansas City	2	6	0.33	210	105
Fort Wayne, IN	Chicago	2	8	0.25	179	90
Flint, MI	Chicago	2	5	0.40	127	64
Evansville, IN	Chicago	2	5	0.40	107	54
Macon, GA	Atlanta	2	7	0.29	97	49
Ponce, PR	New York	2	3	0.67	78	39
Pasadena, CA	San Francisco	2	7	0.29	48	24
Providence, RI	Boston	2	6	0.33	30	15
Fort Smith, AR	Dallas	2	6	0.33	23	12
Tulsa, OK	Dallas	2	9	0.22	9	5
Madison, WI (Satellite)	Chicago	1	2	0.50	136	136
Dover, DE	Philadelphia	1	5	0.20	78	78
Shreveport, LA	Dallas	1	8	0.13	51	51
Paducah, KY	Atlanta	1	12	0.08	28	28
Totals		631	1,227	0.51	34,874¹	57

Note 1: Our total is somewhat less than the Agency's reported 36,366 figure. We extracted 36,150 senior attorney adjudicator (SAA) fiscal year 2009 total decisions from the Office of Disability Adjudication and Review's Case Processing and Management System. Of these, 1,276 decisions could not be associated with a specific SAA. Overall, our 36,150 SAA cases are about 0.6 percent less than the figure reported by the Agency.

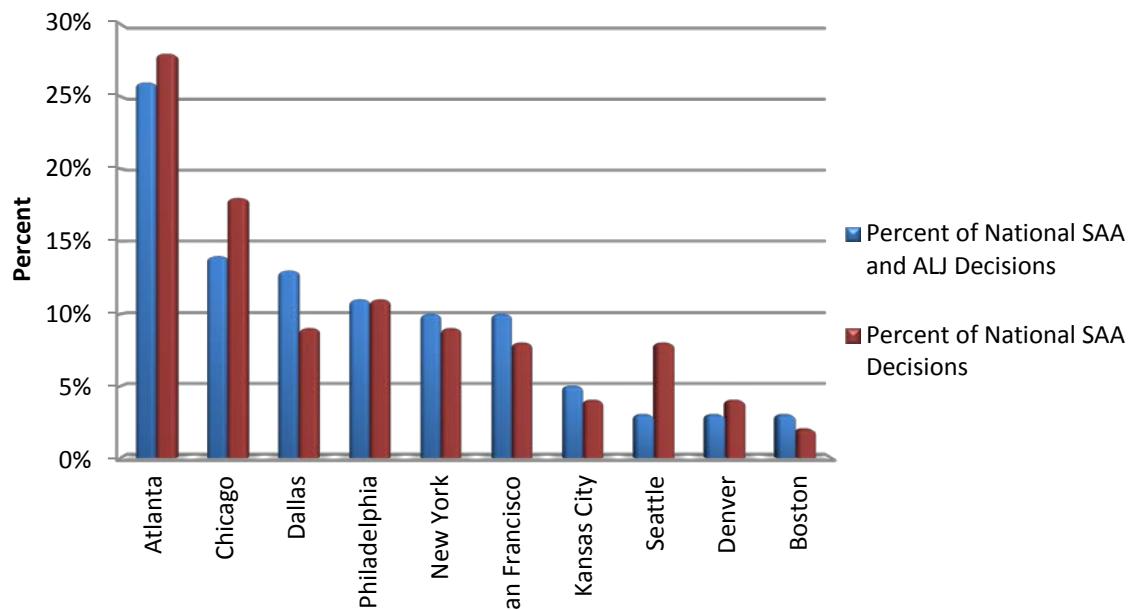
Analysis of Senior Attorney Adjudicator Regional Trends

We reviewed Fiscal Year (FY) 2009 hearing case data in the Office of Disability Adjudication and Review's Case Processing and Management System to highlight senior attorney adjudicator (SAA) workloads nationwide.

SAA DECISIONS BY REGION

The Atlanta and Chicago Regions processed about 40 percent of the total hearing decisions¹ in FY 2009, whereas the two Regions accounted for about 46 percent of the total SAA decisions (see Figure G-1). Of the more than 36,000 SAA decisions, the Atlanta Region had about 10,000 decisions, while the Chicago Region had more than 6,600. In contrast, the Seattle Region had about 2,750 SAA dispositions, or 8 percent of national SAA decisions, even though the Region represents about 3 percent of national hearing decisions.

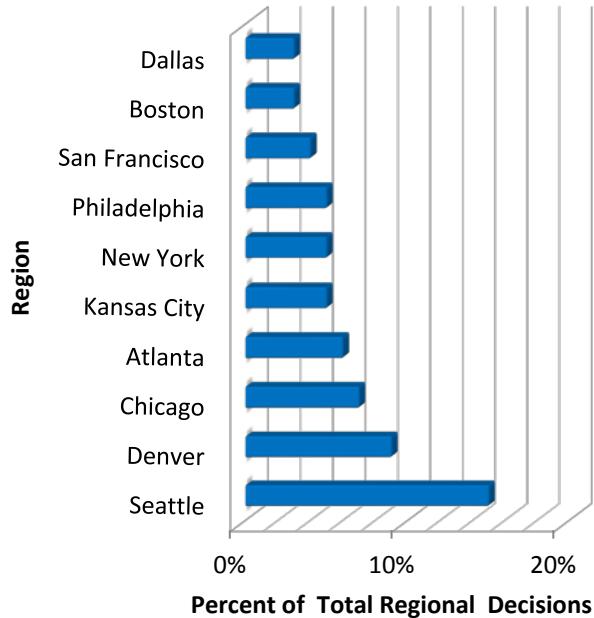
Figure G-1: FY 2009 Senior Attorney Adjudicator and ALJ Decisions by Region Compared to National Volume



¹ Total decisions include both administrative law judge (ALJ) and SAA decisions.

In terms of percent of each region's workload, the Seattle Region had the highest percentage of SAA decisions (15 percent) as a percent of the total regional decisions (see Figure G-2). The Seattle Region had about 18,000 dispositions, of which about 2,750 dispositions were made by SAAs. The percentage of SAA decisions to total regional decisions at the other regions ranged from 3 to 9 percent.

Figure G-2: FY 2009 Senior Attorney Adjudicator Decisions as a Percent of Total Regional Decisions



Our analysis also identified wide variances in timeliness between regions. For instance, although the national average processing time (APT) for SAA decisions was 240 days in FY 2009, APT varied from 195 days in the Philadelphia Region to 315 days in the Boston Region (see Table G-1).² This variance between the two regions may relate to SAAs in the Boston Region processing three times as many cases pending 500 days or more. Nationwide, about 11 percent of FY 2009 SAA decisions related to cases pending 500 days or more, whereas 12 percent of SAA decisions related to cases pending 50 days or less. Overall, about 65 percent of all SAA decisions in FY 2009 related to cases pending 270 days or less. In the Seattle Region, approximately 78 percent of the SAA decisions were pending 270 days or less. Under the Agency's plan to eliminate the hearings backlog, ODAR plans to get the APT down to 270 days for all dispositions by FY 2013—ALJ and SAA dispositions.

² Median processing time also varied widely, from 127 days in the Dallas Region to 256 in the Denver Region.

Table G-1: Timeliness of FY 2009 Senior Attorney Adjudicator Decisions by Region

Region	Average Processing Time	Median Processing Time	Percent of SAA Decisions	Percent 50 Days and Under	Percent 270 Days and Under	Percent 500 Days and Older
Boston	315	239	2.0%	3.7%	53.9%	20.4%
New York	215	178	8.9%	12.7%	69.4%	6.3%
Philadelphia	195	156	10.7%	18.1%	73.9%	6.1%
Atlanta	259	224	27.6%	9.5%	58.6%	11.7%
Chicago	265	211	18.3%	11.1%	59.9%	15.2%
Dallas	209	127	8.5%	19.0%	72.1%	11.3%
Kansas City	281	233	4.3%	8.2%	56.9%	15.7%
Denver	271	256	4.3%	8.2%	52.4%	10.4%
San Francisco	206	165	7.6%	11.1%	72.3%	6.5%
Seattle	207	172	7.7%	10.8%	78.4%	6.9%
Summary	240	192	100.0%	11.90%	64.70%	10.80%

Note: National APT was weighted by region, whereas national median processing time was calculated separately using data from all 10 regions.

SAA DECISIONS BY HEARING OFFICE

In FY 2009, the Seattle, Washington, Hearing Office had 1,278 SAA decisions, the most among all hearing offices nationwide.³ Regional and hearing office management informed us that the SAAs were productive and efficient with adjudication; one SAA in particular made most of the decisions and was promoted to Regional Attorney. In contrast, the Tulsa, Oklahoma, and Fort Worth, Texas, Hearing Offices processed nine SAA decisions each. Management at hearing offices with low numbers of SAA decisions, such as Tulsa, told us that their SAAs needed more training with adjudication. Table G-2 shows the 10 hearing offices with the most SAA decisions in FY 2009. The Seattle Hearing Office processed the highest number of SAA decisions, followed by the Atlanta North Hearing Office. The Spokane, Washington, Hearing Office had the most individual decisions per SAA at 230 decisions.

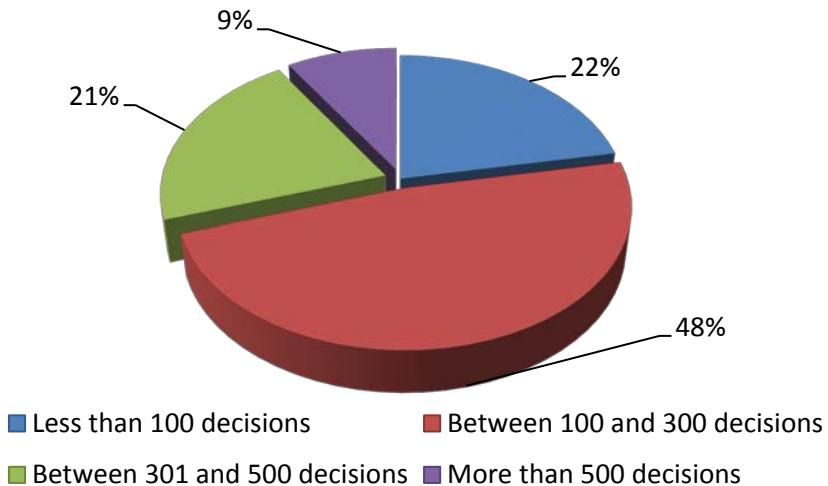
³ See Appendix D for our methodology for selecting our hearing office and Regional office visits.

Table G-2: Highest Volume of FY 2009 Senior Attorney Adjudicator Decisions by Hearing Office

Hearing Office	Number of Senior Attorney Adjudicators	Average Number of Decisions per Senior Attorney Adjudicator	Number of Senior Attorney Adjudicator Decisions
Seattle, WA	8	160	1,278
Atlanta-North, GA	8	109	875
Evanston, IL	4	203	811
Philadelphia, PA	9	85	762
Houston, TX	6	119	712
Atlanta, GA	5	142	711
Spokane, WA	3	230	690
Oklahoma City, OK	8	81	649
Knoxville, TN	6	95	570
Nashville, TN	6	91	547

Twelve (9 percent) of the 140 hearing offices had over 500 SAA decisions, while 31 hearing offices (22 percent) had less than 100 SAA decisions (see Figure G-3). Five of the hearing offices we contacted were among the top 12 in terms of SAA decisions, while 2 hearing offices we contacted had less than 100 decisions.

Figure G-3: FY 2009 SAA Decisions by Hearing Office



As noted earlier, some SAAs produced many more decisions than other SAAs. For instance, the Cleveland, Ohio, Hearing Office had 7 SAAs who issued a total of 436 decisions, while the New Haven, Connecticut, Hearing Office had 7 SAAs who issued only 70 SAA decisions.⁴

⁴ See Appendix F for a table illustrating SAA decisions in each of the hearing offices.

Appendix H

Earlier Senior Attorney Adjudicator Experiment

Before the current Senior Attorney Adjudicator (SAA) program, the Office of Disability Adjudication and Review (ODAR) had a similar SAA experiment operating from 1995 to 2000. The Agency discontinued this program because of a number of issues, including concerns about decisional accuracy. ODAR management told us the Agency never officially compiled a final study on the earlier SAA experiment. However, ODAR management stated the Agency tried to address concerns from the previous experiment and incorporate changes into the new program.

Based on discussions with ODAR staff and management, as well as our review of available documentation, we created Table H-1 that highlights the differences between the programs.

Table H-1: Comparison of Earlier SAA Program with Current SAA Program

Criteria	Previous SAA Experiment	Current SAA Program
Management control over SAA assigned duties	Hearing office management did not have control over the time an SAA spent on adjudicating and decision writing.	Hearing office management decides amount of time SAA spends on adjudicating and decision writing. SAAs detailed to the Virtual Screening Unit spend 100 percent of duty time screening and adjudicating.
Experience requirements	3 years ODAR experience	1 year ODAR experience at GS-12 level
Promotions	Temporary	Permanent
Quality	Cases randomly selected for post-effectuation review by the Office of Program and Integrity Reviews. ¹ Administrative law judges expressed concerns about quality and accuracy of decisions. The program received low marks in a Quality Assurance Review.	Cases randomly selected for post-effectuation review by the Office of Quality Performance (OQP). OQP's FY 2009 review reported a 96 percent agreement rate.
SAA Notes to ALJs	Brief case analysis	Abbreviated notes and checklist
Availability of Decision Writers	Decision writers who were promoted to SAAs were not replaced.	Decision writers were hired to replace promoted SAAs. According to the SAA position description, SAAs are expected to write the most complex cases, regardless of their adjudicative duties.

Note 1: The Office of Program Integrity Reviews later became OQP.

Appendix I

Senior Attorney Adjudicator Worksheet Sample

ATTORNEY ADJUDICATOR WORKSHEET

Claimant: _____ SSN: _____

Reason Cannot Issue OTR Fully Favorable Decision

- Fully favorable decision is not supported and obtaining additional evidence is not likely to result in a fully favorable decision without a hearing.

Fully favorable decision is supported but:

- amended onset required and the claimant is unrepresented (ask management to assign the case to an ALJ for OTR review).
- amended onset required and the Title II claim would have to be dismissed (ask management to assign the case to an ALJ for OTR review).
- amended onset could not be obtained through the representative.
- a prior ALJ/AC decision would have to be reopened (ask management to assign the case to an ALJ for OTR review).
- the EOD is within the reopening period of a prior application that cannot be reopened (ask management to assign the case to an ALJ for OTR review).
- additional evidence may result in a closed period decision.

Fully favorable decision likely to be supported with additional evidence which:

- cannot be obtained quickly.
- was requested but not received in a timely manner (add “to do” item in CPMS requesting to review the case again if the evidence is received before the case is assigned to an ALJ).
- does not currently exist (add “to do” item in CPMS requesting to review the case again on the date you believe the evidence should be available if the case has not been assigned to an ALJ).

Reason Cannot Issue OTR Fully Favorable Decision

VE at hearing ME at hearing CE (physical) CE (mental)

Updated earnings: Critical/TERI Status (ask management to review for special processing)

Other recommendation(s) and /or information that may be helpful to the ALJ:

Attorney Adjudicator:

Date: March 31, 2010

Appendix J

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: June 22, 2011

Refer To: S1J-3

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

From: Dean S. Landis /s/
Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, "Senior Attorney Adjudicator Program"
(A-12-10-11018)--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 Frances Cord at (410) 966-5787.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
“SENIOR ATTORNEY ADJUDICATOR (SAA) PROGRAM” A-12-10-11018**

Recommendation 1

Establish uniform performance measures for SAAs to ensure workloads are processed consistent with clearly defined standards.

Response

We agree. Before implementing any changes in the performance standards or measures, we will be required to meet our statutory labor obligations.

Recommendation 2

Link SAA awards to uniform performance measures and ensure hearing office managers understand the administration of the SAA awards process.

Response

We agree. Before implementing any changes in the awards process, we will be required to meet our statutory labor obligations.

Recommendation 3

Provide managers and staff with clear criteria for all SAA promotions.

Response

We agree.

Recommendation 4

Provide SAAs with additional guidance and tools, such as a modified Attorney Adjudicator Worksheet, to ensure SAAs highlight pertinent case details when a case cannot be decided as an OTR.

Response

We agree. We currently maintain a website with tools and guidance for attorney adjudicators at the following link: <http://odar.ba.ssa.gov/odarweb/ocalj/attorneyadj.htm>. In the near future, we will release a temporary instruction with detailed guidance for SAAs. In addition, we have established a senior attorney training cadre, and we are developing a training curriculum for SAAs.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Walter Bayer, Director, Chicago Audit Division

Nicholas Milanek, Audit Manager, Falls Church Audit Office

Acknowledgments

In addition to those named above:

Faisal Khan, Auditor-in-Charge

Mary Ann Braycich, Senior Evaluator

Asad Isfahani, Auditor

Parham Price, Auditor

Nichole Bazemore, Auditor

For additional copies of this report, please visit our Website at

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The Office of the Inspector General (OIG) is comprised of an Office of Audit (OA), Office of Investigations (OI), Office of the Counsel to the Inspector General (OCIG), Office of External Relations (OER), and Office of Technology and Resource Management (OTRM). To ensure compliance with policies and procedures, internal controls, and professional standards, the OIG also has a comprehensive Professional Responsibility and Quality Assurance program.

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OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

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