

# Report Summary

Social Security Administration Office of the Inspector General

March 2012



## Objective

To evaluate (1) the constraints, including statutory limitations, the Social Security Administration (SSA) faces in reviewing administrative law judges' (ALJ) decisions and (2) SSA's quality review systems for ALJs' decisions.

## Background

The Office of Disability Adjudication and Review (ODAR) holds hearings and issues decisions as part of SSA's process for determining whether a person may receive benefits. ODAR directs a nation-wide field organization staffed with ALJs who conduct impartial hearings and make decisions on appealed determinations.

In a June 16, 2011 letter, several members of the Committee on Ways and Means, Subcommittee on Social Security, requested that we review SSA's ability to review ALJs for unusual allowance rates.

To view the full report, visit <http://oig.ssa.gov/audits-and-investigations/audit-reports/A-07-12-21234>

## *Congressional Response Report: The Social Security Administration's Review of Administrative Law Judges' Decisions* (A-07-12-21234)

### Our Findings

SSA has the authority to review ALJs' decisions but faces legal limitations in conducting its reviews. Specifically, Federal regulations require that neither SSA's random sampling procedures nor its selective sampling procedures will identify ALJ decisions for the Appeals Council's (AC) pre-effectuation review based on the identity of the decisionmaker or the identity of the office issuing the decision. According to SSA, this requirement in its rules ensured that its case selection procedures did not stop ALJs from deciding cases impartially, free from Agency influence. Under the regulations, the AC has 60 days in which to decide whether to take own motion review of a claimant's case, and the decision is subject to change based on the review results.

SSA also has the authority to conduct post-effectuation reviews of specific ALJ decisions based on anomalies. Post-effectuation reviews occur after the 60-day period within which the AC can take own motion review and ordinarily do not result in a change to the decision. The post-effectuation reviews determine whether ALJs followed SSA's policies and procedures. If SSA determines an ALJ failed to comply with the Agency's policies and procedures, it can issue directives to the ALJ to comply. If the ALJ fails to comply with the directives, SSA can seek disciplinary actions against the ALJ. SSA also uses post-effectuation reviews to identify training needs.

Most recently, SSA conducted three types of reviews of ALJs' decisions.

- In Fiscal Year (FY) 2011, ODAR completed its first annual pre-effectuation review of ALJ decisions, reviewing 3,692 randomly selected allowance decisions.
- In FY 2011, ODAR conducted seven post-effectuation studies on cases based on anomalies that came to its attention.
- In FY 2010, SSA's Office of Quality Performance began performing post-effectuation reviews of randomly selected ALJ decisions.