



SOCIAL SECURITY

August 2, 2005

The Honorable F. James Sensenbrenner, Jr.
Chairman, Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I want to thank you for your interest in the Social Security Administration's Office of Hearings and Appeals (OHA). In a February 8, 2005 letter, you requested that we review the Milwaukee, Wisconsin, OHA processing of hearing requests. We have completed our work and the results of our review are discussed in the enclosed report.

My office is committed to eliminating fraud, waste, and abuse in the Social Security Administration's operations and programs. We have provided a copy of the enclosed report to Congressman Paul Ryan. If you have any questions concerning this matter, please call me or have your staff contact H. Douglas Cunningham, Assistant Inspector General for Congressional and Intra-Governmental Liaison, at (202) 358-6319.

Sincerely,



Patrick P. O'Carroll, Jr.
Inspector General

Enclosure

cc:

Jo Anne B. Barnhart, Commissioner
Dale W. Sopper, Deputy Commissioner for Finance, Assessment and Management
Martin H. Gerry, Deputy Commissioner for Disability and Income Security Programs
Reginald F. Wells, Deputy Commissioner for Human Resources
A. Jacy Thurmond, Jr., Associate Commissioner for Hearings and Appeals



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The Honorable Paul Ryan
Subcommittee on Social Security
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Ryan:

I want to thank you for your interest in the Social Security Administration's Office of Hearings and Appeals (OHA). In a February 8, 2005 letter, you requested that we review the Milwaukee, Wisconsin, OHA processing of hearing requests. We have completed our work and the results of our review are discussed in the enclosed report.

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CONGRESSIONAL RESPONSE REPORT

*Review of Milwaukee
Office of Hearings and Appeals*

A-13-05-25140



August 2005

Mission

We improve SSA programs and operations and protect them against fraud, waste, and abuse by conducting independent and objective audits, evaluations, and investigations. We provide timely, useful, and reliable information and advice to Administration officials, the Congress, and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- 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.**

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.**
- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

Vision

By conducting independent and objective audits, investigations, and evaluations, we are agents of positive change striving for continuous improvement in the Social Security Administration's programs, operations, and management and in our own office.

Executive Summary

OBJECTIVE

In a February 8, 2005 letter, to the Inspector General, Representatives F. James Sensenbrenner, Jr. and Paul Ryan questioned whether actions taken since 2003 have addressed deficiencies in the Milwaukee Hearings Office's (MHO) processing of hearing requests. Specifically, our objectives were to: (1) follow up on actions the Chicago Regional Office of Hearings and Appeals (OHA) planned to implement; (2) obtain and compare accuracy and efficiency data from MHO with regional and national data; (3) determine whether hearing requests Congress submitted to the MHO on behalf of constituents are monitored and processed timely; and (4) review the MHO's processing of hearing requests for individuals facing imminent homelessness or terminal illness.

BACKGROUND

The Chicago Regional OHA conducted a review of the MHO operations in February 2003. In its April 15, 2003 internal report, the review team identified 88 action items to address the identified deficiencies.

In June 2003, Senators Herb Kohl and Russell D. Feingold, and Representative Jerry Kleczka expressed concern about constituents receiving the level of service they deserved from the MHO. The Congressmen requested that we investigate the MHO operations. Our report, issued in November 2003, confirmed 64 of the 88 action items had been implemented by August 14, 2003. According to MHO management, 23 of the remaining 24 action items were implemented in October 2003. We also reported the number of backlog claimant cases per Administrative Law Judge increased from 578 at the end of Fiscal Year (FY) 2002, to 973 at the end of FY 2003. The Agency identified five actions it planned to take to address the growing number of backlog cases.

RESULTS OF REVIEW

SSA reported taking action on all five items intended to address the growing MHO claimant case backlog. However, we believe one of the five action items was not fully implemented. That action item was to make Marquette, Michigan a satellite office.

We found MHO had a higher case backlog, more new claimant cases per day, and took more days to process a case than the national averages for these efficiency measures. Finally, the MHO had a process in place for monitoring congressional inquiries and individuals facing imminent homelessness or terminal illness.

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Background

OBJECTIVE

In a February 8, 2005 letter, Representatives F. James Sensenbrenner, Jr. and Paul Ryan questioned whether actions taken since 2003 have addressed deficiencies in the Milwaukee Hearing Office's (MHO) system for processing hearing requests. We conducted this review in response to their concerns. Our objectives were to:

- follow up on actions the Chicago Regional Office of Hearings and Appeals (OHA) planned to implement;
- obtain and compare accuracy and efficiency data from the MHO with regional and national data;
- determine whether hearing requests Congress submitted to the MHO on behalf of constituents are monitored and processed timely; and
- review the MHO's processing of hearing requests for individuals facing imminent homelessness or terminal illness.

BACKGROUND

The Social Security Administration (SSA) administers two programs that provide benefits based on disability—Disability Insurance and Supplemental Security Income programs. The Office of Disability and Income Security Programs (ODISP) directs and manages the planning, development, issuance and operational regulations, standards and instructions for these programs. Within ODISP, OHA is responsible for conducting hearings and issuing decisions as part of determining whether a person may receive disability benefits. OHA consists of 10 regional offices and approximately 140 hearing offices. The Chicago Regional OHA services residents in the six State area comprised of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. MHO is 1 of 20 hearing offices within the Chicago Regional OHA structure.

The Chicago Regional OHA conducted a review of the MHO operations in February 2003. In its April 15, 2003 internal report, the review team identified 88 action items to address the identified deficiencies. Most of the deficiencies pertained to: caseload management; decision writing; administrative issues; computer systems; and health, safety, and security issues.

In June 2003, Senators Herb Kohl and Russell D. Feingold and Representative Jerry Kleczka expressed concern about constituents receiving the level of service they deserved from the MHO. The Congressmen requested that we investigate the MHO operations. Our report, issued in November 2003,¹ confirmed 64 of the 88 action items had been implemented by August 14, 2003. According to MHO management, 23 of the remaining 24 action items were implemented in October 2003. We reported MHO management planned to implement the remaining health and safety training action item by December 30, 2003.

We also reported the number of backlog² claimant cases per Administrative Law Judge (ALJ) increased from 578 at the end of Fiscal Year (FY) 2002, to 973 at the end of FY 2003. The Chicago Regional OHA identified a number of actions it planned to take to address the growing number of backlog cases.

¹ *Congressional Response Report: Operations at the Social Security Administration's Milwaukee, Wisconsin, Office of Hearings and Appeals* (A-13-03-23091) November 14, 2003.

² The backlog includes all cases that are in-process from the date a hearing was requested to the notice date of the decision.

Results of Review

MHO implemented the remaining Chicago Regional OHA recommendation to address deficiencies identified during its February 2003 review. In addition, ODISP management reported taking action on the five items intended to address the growing MHO claimant case backlog. However, we believe one of the five action items was not fully implemented. The action taken for this item had limited impact on the MHO backlog of claimant cases.

We also found MHO had a higher case backlog, more new claimant cases per day, and took more days to process a case than the national averages for these efficiency measures. The MHO had a process for monitoring inquiries made by members of Congress on behalf of constituents. However, MHO management reported these cases were processed under the MHO's normal procedures. Similar to other claimant cases, cases of interest to Congress are processed in the order received unless the case meets certain criteria. Lastly, MHO had a process for expediting hearing requests for individuals facing imminent homelessness or terminal illness.

Follow up of Action Items from November 2003 Report

In November 2003, we reported MHO management had implemented all but one action item to address deficiencies identified in the April 2003 internal report. During our review MHO management reported the remaining health and safety training action item was implemented.

We also reported in November 2003 five specific actions the Chicago Regional OHA planned to take to address the growing MHO claimant case backlog. To determine whether those actions were implemented as planned, we obtained information from ODISP officials. ODISP management reported that the action items were implemented. However, we believe the last action item reported below was not fully implemented. The action taken for this item had limited impact on the MHO's backlog of claimant cases. ODISP management provided us the following information regarding these action items.

- The Chicago Regional Office planned to implement the use of video technology. The Deputy Commissioner for ODISP was looking into expediting the installation of video teleconference technology in the MHO and Marquette remote site by the close of Calendar Year 2003. The long-term goal was to install similar equipment in offices located in other cities served by MHO. This would negate the need for physical travel, which would allow for more efficient processing of the claimant cases from these cities.

ODISP reported video hearing (VH) equipment installations have been completed at the MHO and the Green Bay, Wisconsin and Oshkosh, Wisconsin remote hearing sites. Video equipment was installed at the Marquette, Michigan location on May 16, 2005. The Chicago Regional Office expects to install video equipment at the Wausau, Wisconsin remote hearing site in 2006.

- The Chicago Regional Chief ALJ instructed MHO to prepare for visiting ALJs to assist with its caseload in FY 2004. The initial plan indicated ALJs from the following locations in the State of Illinois would travel to MHO to ease the pressure of the climbing receipts: Evanston, Chicago South, Oakbrook Terrace, and Peoria.

Rather than using visiting ALJs, ODISP reported the MHO transferred claimant cases to other OHA offices. In FY 2004, the MHO transferred 150 cases to the Dayton, Ohio hearing office and another 500 cases were transferred to hearing offices in Chicago, Illinois; Orland Park, Illinois; Evansville, Indiana; and Indianapolis, Indiana. Additionally, 1,000 cases were transferred to the Dallas region. In FY 2005, 1,500 cases were transferred to the Dallas region hearing offices.

- The MHO planned to use the assistance of contractor file assembly and hearing office "case work-up" personnel to prepare cases for the assisting office. ODISP reported in FY 2004, the MHO transferred 380 cases aged over 365 days to other OHA offices for folder preparation and hearing assistance. As of March 2005, the Chicago OHA region sent 825 cases to other OHA offices for assembly.
- The Chicago Regional Chief ALJ anticipated hiring new ALJs in FY 2004 for the MHO. In June 2004, two additional ALJs were hired and assigned to MHO. In addition, ODISP stated one ALJ reported to the MHO on May 16, 2005 and a second ALJ is expected to report on July 11, 2005.

During our review, MHO management indicated concern about the lack of support staff needed to properly prepare claimant cases for review by the ALJs. We obtained information for the Chicago OHA region concerning the ratio of support staff to ALJs. The April 2005 report ranked the Orland Park, Illinois hearing office as 1st with a ratio of 8.25 support staff per ALJ. MHO was ranked 16th of the 20 offices in the Chicago region. It had a ratio of 4.18 support staff per ALJ.

SSA reported to us in July 2005 that MHO will be hiring 11 new employees by the end of FY 2005. Nine of the employees should report to MHO by August 7, 2005, and the other 2 employees should report to the MHO by September 30, 2005.

- The Deputy Commissioner for ODISP had been given a proposal to make Marquette, Michigan an official satellite office. This entailed staffing the Marquette hearing office with judges, clerks, writers, management, etc. MHO's caseload related to Marquette, Michigan claimants would be transferred to the newly formed Marquette satellite office. Thus, Milwaukee ALJs would not have to travel to Marquette.

Concerning this action item ODISP management reported:

In February 2004, the Marquette site was converted to a permanent remote site, allowing the Office of Hearings and Appeals (OHA) to acquire leased space to conduct its Marquette area hearings. The acquisition of permanent space allows for the installation of VH equipment which should reduce the need for Milwaukee ALJs to travel to Marquette to conduct hearings.³

Although the use of VH equipment at the Marquette location will reduce ALJ travel, it will not significantly reduce the backlog of cases assigned to the MHO. We recognize that the cost benefit of making the Marquette location a satellite office has to be weighed against other Agency priorities. However, if the Agency would make the Marquette location a satellite office with its own staff, about 1,000 MHO backlog cases scheduled for a hearing at the Marquette location could be transferred from the MHO to Marquette. As of April 2005, this could have reduced MHO's case backlog by approximately 11 percent. In addition, all future claimant cases in the Marquette area could be assigned to the Marquette satellite office. The result would be reducing MHO backlog and therefore improving overall case processing time.

Data Accuracy and Efficiency

To address our objective regarding the accuracy of MHO data, we reviewed claimant case processing information contained in the Agency's Case Process Management System (CPMS). Specifically, we verified whether the number of cases reported as "in process" in the CPMS management reports was accurate. At the MHO, we selected approximately 72 percent (6,444 of 8,941) of the claimant cases reported as in process in CPMS for review. Our selection was based on cases with a status code indicating the cases were not being edited on the day of our review. We confirmed approximately 98.9 percent (6,374 of 6,444) of the cases selected were located in the appropriate MHO's case files. We did not test the accuracy of regional and national workload data contained within CPMS. A review is currently being conducted to assess the ability of CPMS to improve workload management at hearing offices within OHA.⁴

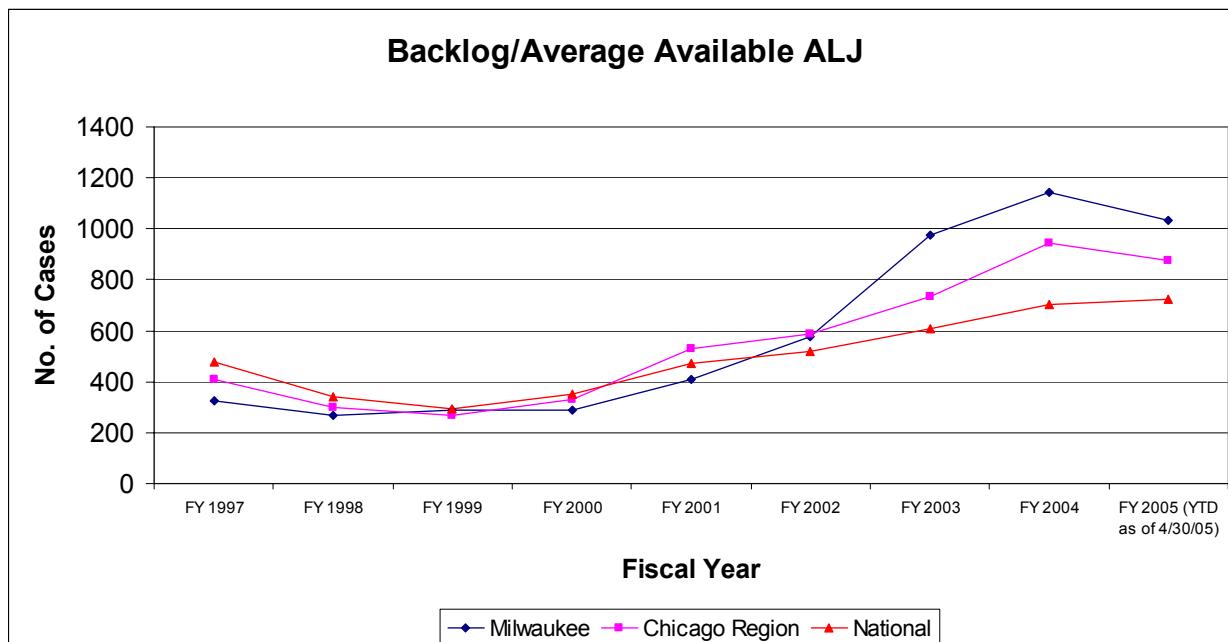
During our review, we examined certain efficiency measures. We found MHO had a higher case backlog and more new claimant cases per day than the regional and national averages. MHO's claimant case dispositions per ALJ was lower than the national and regional averages. In addition, we found the MHO took more days to process a case than the national average, but less time than the regional average. We examined data from the CPMS⁵ reports for the MHO, the Chicago OHA region, and the Nation for the period October 1997 to April 2005 and found the trends identified in the following charts. See Appendix C for numeric details.

³ DCDISP electronic mail dated April 11, 2005.

⁴ SSA, OIG, *Case Processing and Management System and Workload Management* (A-12-06-26012).

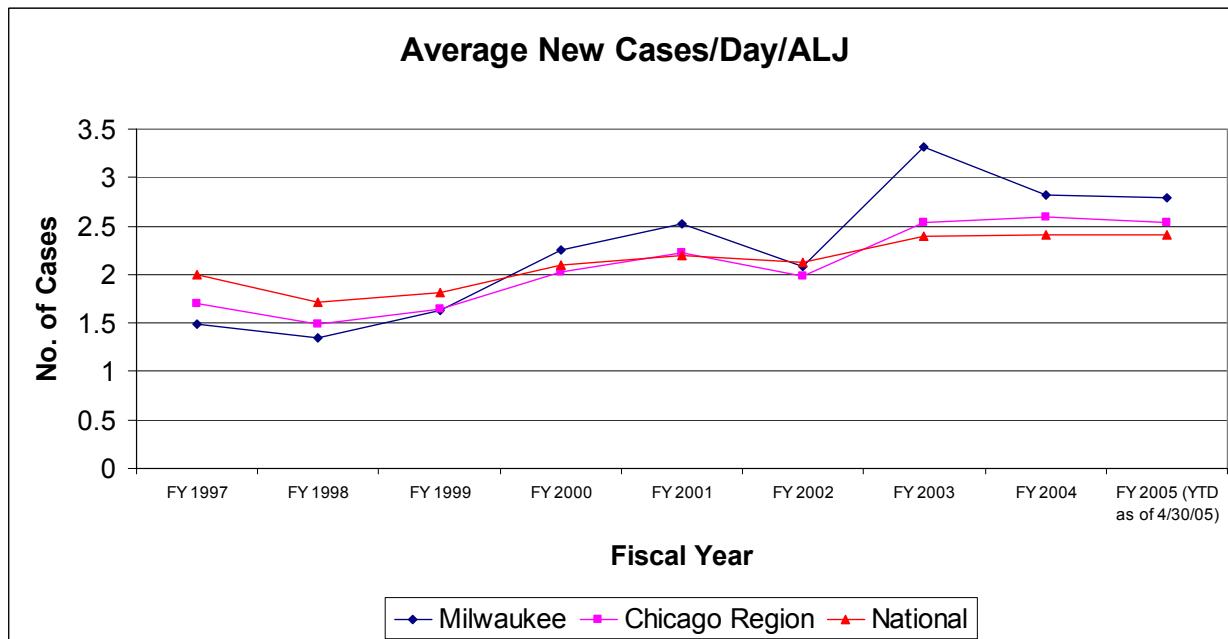
⁵ Prior to May 1, 2004, trend information was derived from OHA's former Hearing Office Tracking System.

Chart 1



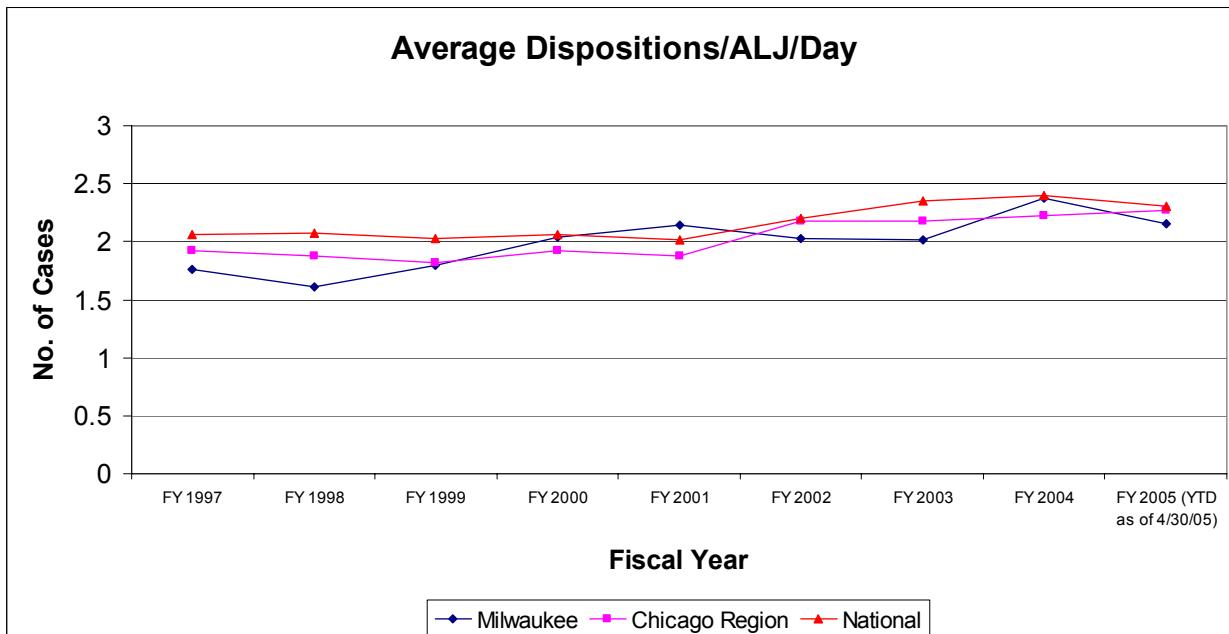
The claimant case backlog per available ALJ, as of April 2005, was 1,031 cases at the MHO, the Chicago OHA regional average was 874 cases, and the national average was 723 cases.

Chart 2



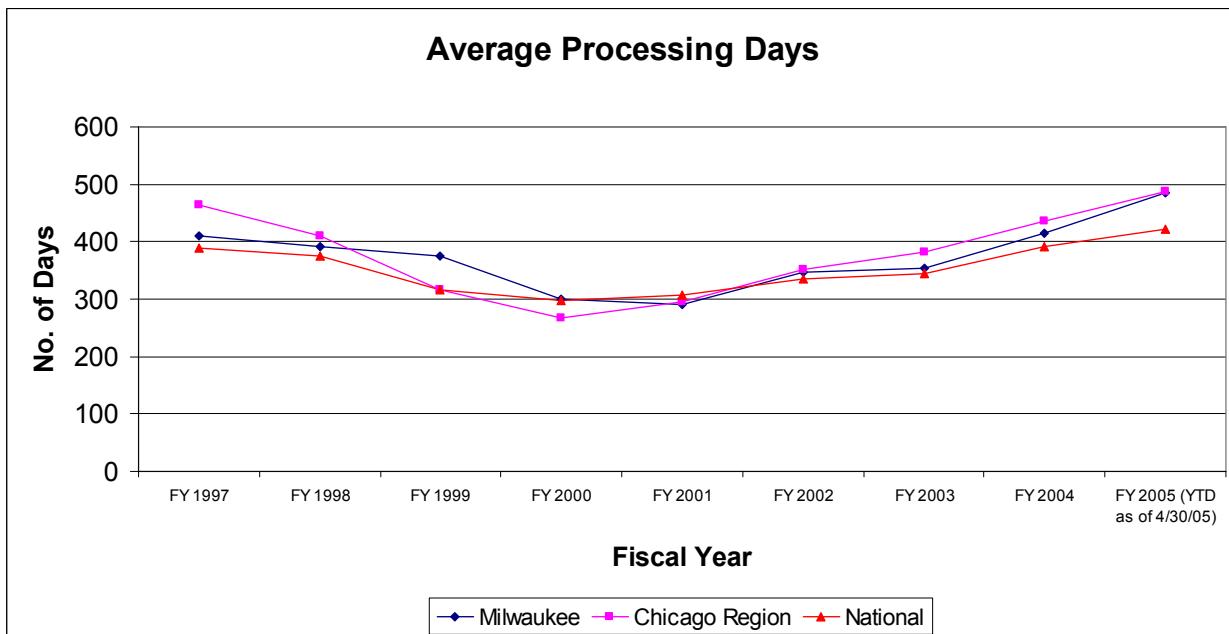
New claimant cases received per day per ALJ, as of April 2005, was 2.79 cases at the MHO, the Chicago OHA regional average was 2.54 cases, and the national average was 2.41 cases.

Chart 3



Claimant case dispositions per ALJ, as of April, 2005, were 2.15 cases for the MHO, the Chicago OHA regional average was 2.27 cases and, the national average was 2.30 cases.

Chart 4



The number of processing days is the average number of calendar days from the date of the hearing request to the disposition date. The average number of days to process a case, as of April 2005, was 484 at the MHO, 488 days for the Chicago OHA regional average, and 422 days for the national average.

Congressional Interest Cases

During our review, we found the MHO had a system in place to track congressional interest cases. However, MHO management informed us that these cases were processed under the office's normal procedures. Similar to other claimant cases, cases that are of interest to Congress are processed in the order the request for hearing is received unless the case meets the dire need criteria. At the time of our review, there were 344 congressional interest cases being processed at the MHO.

The process begins when congressional inquiries are referred to the MHO's Congressional Liaison. When a congressional inquiry is made, the Congressional Liaison places a red cover on the claimant case folder and enters case information into CPMS. Also the MHO maintains a separate, electronic spreadsheet listing various information about an inquiry, such as reason for entry, etc. Each month a summary report is prepared from CPMS and sent to appropriate congressional representatives specifying the status of their respective inquiries. In addition, the MHO issues letters regarding these inquiries. Letters are sent to the congressional inquirer and the claimant or the claimant representative when the:

- inquiry is received by MHO,
- case is scheduled for a hearing, and/or
- disposition is reached.

Although MHO management reported congressional interest cases were not processed differently unless the case met the dire need criteria, OHA policy, Hearings Appeals and Litigation Law (HALLEX) I-2-1-40 B.4., Critical Cases, indicates these cases would warrant instituting critical case processing procedures. Specifically, this policy states critical case processing procedures should be used if the case has been delayed an inordinate amount of time, i.e. it has been pending more than 60 days longer than the average processing time for the office in question, and there is a public, congressional or other high priority inquiry on the case.

We requested information from ODISP regarding this policy. According to ODISP management:

...OHA does not require hearing offices to monitor the pending cases to identify those that have congressional interest and have aged an inordinate amount of time. The Milwaukee HO follows the HALLEX reference in as much as they will escalate processing of a case when they receive a congressional inquiry if the case has been pending an inordinate amount of time; however, Milwaukee reports that the example time frame shown in HALLEX (60 days) is not realistic given the current backlogs and processing times.⁶

SSA reported in July 2005 that OHA is exploring revisions to the critical case procedures in HALLEX I-2-1-40. One objective is to ensure that a hearing office is able

⁶ DCDISP electronic mail dated July 1, 2005.

to give priority attention to the neediest claimants. Escalating too many cases may significantly hinder this goal. OHA expects HALLEX to be revised by September 30, 2005.

To complete our analysis, we requested ODISP provide detailed information about the processing time for FY 2004 congressional interest cases. On July 1, 2005, ODISP management responded to our request by informing us that there is currently no CPMS report that provides cumulative processing time for congressional, critical or terminally ill cases for a given hearing office. Therefore, we were unable to independently verify MHO's average processing time for congressional interest cases.

Claimant Cases Involving Imminent Homelessness or Terminal Illness

MHO had a process for expediting hearing requests for individuals facing imminent homelessness or terminal illness. These individuals' cases are classified as dire need. Dire need is defined by OHA as a person who is suicidal, homicidal, terminally ill, or facing a financial crisis such as bankruptcy or eviction. We found the MHO had a process in place to expedite dire need cases once identified.

MHO management stated the process begins with an initial screening by the docket clerk. The clerk reviews case documentation for the existence of a potential dire need situation. The claimant case folder is flagged with a green stick-on label if the clerk suspects a dire need situation exists. The MHO Office Supervisor is then notified. The Supervisor consults with an ALJ, if the supervisor is unable to determine whether the claimant has a dire need. Once a dire need is determined, the Supervisor immediately assigns the case to a Senior Attorney. The Senior Attorney reviews the case for the possibility of an on-the-record (OTR) decision. An OTR decision occurs when a disability award can be granted based on medical and other evidence already documented in the claimant case folder. If the Senior Attorney determines that an OTR decision is not possible, the case is returned to the Supervisor for immediate "workup." Workup involves gathering documentation and putting together the exhibits for the case, which will be assigned to an ALJ. Once the case is assigned to an ALJ, a hearing date is established as soon as possible. As previously discussed, we were not able to independently verify the timeliness of this process.

We observed MHO's processing of a congressional interest case that was determined to be a dire need case. The claimant was terminally ill. A Congressional Representative from the fourth district of Wisconsin made an inquiry about the status of the individual's case. The Representative's staff had contacted the MHO on April 5, 2005, and notified MHO the claimant was recently diagnosed with terminal lung cancer. MHO notified the Congresswoman the next day that the case was flagged as a congressional interest and a dire needs case, and would receive immediate attention. A favorable disposition for this claimant was reached on April 12, 2005, and the notice was mailed to the claimant on April 13, 2005.

Appendices

[APPENDIX A](#) – Acronyms

[APPENDIX B](#) – Scope and Methodology

[APPENDIX C](#) – Efficiency Trend Data

Appendix A

Acronyms

ALJ	Administrative Law Judge
CPMS	Case Process Management System
FY	Fiscal Year
HALLEX	Hearings Appeals and Litigation Law
MHO	Milwaukee Hearing Office
ODISP	Office of Disability and Income Security Programs
OHA	Office of Hearings and Appeals
OTR	On the Record
SSA	Social Security Administration
VH	Video Hearing

Scope and Methodology

We collected and analyzed information specific to the concerns identified by Representatives Paul Ryan and F. James Sensenbrenner, Jr. regarding the Milwaukee Hearing Office's (MHO) system for processing hearing requests. To determine the status of actions the Chicago Regional Office of Hearings and Appeals (OHA) planned to implement, we contacted the Office of Disability Programs in Baltimore, Maryland and visited the MHO during the week of April 10, 2005. Our review covered the period September 2003 to April 2005.

To achieve our objectives, we:

- Obtained and examined the prior report that summarized our review of the MHO operations.
- Evaluated conditions identified in the report and determined whether the Chicago OHA and MHO management addressed prior issues in a timely manner.
- Reviewed and evaluated the MHO's performance since September 2003.
- Visited the MHO to determine the status of actions taken.
- We obtained from the OHA Case Process Management System a Workload Summary report as of April 13, 2005, and selected backlogged cases to verify the MHO claimant case counts in the report. We also reviewed actual claimant case folders to verify existence of the case files.
- We collected productivity reports and other pertinent information from the MHO, and the OHA's intranet site. We examined certain productivity measures, and compared the MHO with regional and national data.
- Obtained testimonial and documentary evidence to determine processing of congressional interest and dire need cases.

The Social Security Administration operating component reviewed was the Office of the Deputy Commissioner for Disability and Income Security Programs. We performed our review in Milwaukee, Wisconsin, and Baltimore, Maryland from March through July 2005. We conducted our review in accordance with *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

Appendix C

Efficiency Trend Data

	Fiscal Year (FY) 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005 (as of 4/30/05)
Backlog (Year End)									
Milwaukee	4,272	3,688	3,934	2,676	3,021	4,237	8,059	8,735	9,411
Chicago Region	63,359	46,728	39,710	43,759	62,130	75,954	99,315	122,117	123,911
National	476,414	372,602	311,722	346,756	435,904	500,757	591,562	664,276	711,029
Backlog/Average Available ALJ									
Milwaukee	327	265	289	289	411	578	973	1,145	1,031
Chicago Region	410	297	265	331	530	587	736	946	874
National	479	343	291	351	474	517	607	703	723
Average New Cases/Day/ALJ									
Milwaukee	1.49	1.34	1.63	2.25	2.52	2.08	3.31	2.82	2.79
Chicago Region	1.7	1.49	1.65	2.03	2.22	1.98	2.53	2.59	2.54
National	2	1.71	1.82	2.1	2.19	2.13	2.4	2.41	2.41
Average Processing Days									
Milwaukee	410	392	374	300	290	346	354	415	484
Chicago Region	464	409	316	267	295	352	383	437	488
National	389	374	317	297	308	336	344	391	422
Average Dispositions/ALJ/Day									
Milwaukee	1.76	1.61	1.79	2.04	2.14	2.03	2.02	2.38	2.15
Chicago Region	1.92	1.88	1.82	1.92	1.88	2.18	2.18	2.22	2.27
National	2.06	2.07	2.03	2.06	2.02	2.2	2.35	2.4	2.30
Average Number of Available ALJs									
Milwaukee	13.05	13.93	13.61	9.25	7.35	7.33	8.28	7.63	9.13
Chicago Region	154.49	157.15	149.57	132.23	117.14	129.3	134.93	129.15	141.81
National	995.19	1,087.3	1,069.9	988.56	919.25	969.46	974.57	944.42	983.86

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Office of Audit

OA conducts and/or supervises 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 and program evaluations and projects on issues of concern to SSA, Congress, and the general public.

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OI conducts and coordinates investigative activity related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as OIG liaison to the Department of Justice on all matters relating to the investigations of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Office of the Chief Counsel to the Inspector General

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Office of Executive Operations

OEO supports OIG by providing information resource management and systems security. OEO also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, OEO is the focal point for OIG's strategic planning function and the development and implementation of performance measures required by the Government Performance and Results Act of 1993.