

Audit Report

Identifying and Monitoring Risk
Factors at Hearing Offices

MEMORANDUM

Date: January 24, 2013 **Refer To:**
To: The Commissioner
From: Inspector General
Subject: Identifying and Monitoring Risk Factors at Hearing Offices (A-12-12-11289)

The attached final report presents the results of our review. Our objectives were to determine whether the Office of Disability Adjudication and Review had (1) identified key risk factors related to hearing office performance and operations and (2) established a process to measure and monitor these key risk factors.

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



Patrick P. O'Carroll, Jr.

Attachment

Summary of Identifying and Monitoring Risk Factors at Hearing Offices

A-12-12-11289



January 2013

Objective

To determine whether the Office of Disability Adjudication and Review (ODAR) had (1) identified key risk factors related to hearing office performance and operations and (2) established a process to measure and monitor these key risk factors.

Background

Administrative law judges (ALJ) and senior attorney adjudicators, in approximately 165 hearing offices and 5 National Hearing Centers, issued over 793,000 dispositions in Fiscal Year (FY) 2011. ALJs, managers, and hearing office staff are required to adhere to ODAR's policies and procedures to ensure each claimant has a fair hearing on his/her claim. In addition, ODAR managers are required to monitor the quality of the hearing process, ensure sufficient resources are directed at key workloads, and address allegations pertaining to deviations from proper case handling.

Our Findings

We found that ODAR had created 19 ranking reports that measured hearing office performance using a single risk factor, such as average processing time or pending cases per ALJ. However, ODAR had not established a process to rank hearing office performance using a combination of risk factors. In FY 2011, ODAR began developing an early monitoring system to measure ALJ performance based on a combination of risk factors, such as number of dispositions, number of on-the-record decisions, and frequency of hearings with the same claimant representative. A quality division then reviewed potential issues identified in the ALJ monitoring system to ensure compliance with established policies and procedures. We reviewed hearing office risk factors particular to ALJs to determine whether such information, when alone or combined with ODAR's ALJ monitoring system outcomes, would provide ODAR management with additional information to assess hearing office management controls. We found large variances in ALJ outcomes within and between hearing offices, indicating that further review of ALJ performance variances in hearing offices, as well as a new hearing office monitoring system using a combination of risk factors, would provide ODAR with additional tools to assess hearing office management controls. Moreover, greater analysis of hearing office variance can put issues identified as part of ODAR's ALJ monitoring system and quality reviews into a broader context.

Our Recommendations

- 1.** Ensure an ALJ early monitoring system becomes a permanent part of management oversight and use this information to timely address potential anomalies in the hearings process.
- 2.** Create new management information reports combining ALJ-related hearing office risk factors, which could include variances within those factors, and use this information to identify potential processing and management problems at hearing offices.

The Agency agreed with the recommendations.

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ABBREVIATIONS

ALJ	Administrative Law Judge
APT	Average Processing Time
ARRA	<i>American Recovery and Reinvestment Act</i>
C.F.R.	Code of Federal Regulations
CPMS	Case Processing and Management System
CRR	Congressional Response Report
DART	Disability Adjudication Reporting Tools
DQ	Division of Quality
DQS	Division of Quality Services
FY	Fiscal Year
MI	Management Information
NHC	National Hearing Center
OAO	Office of Appellate Operations
OCALJ	Office of the Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
OQP	Office of Quality Performance
OTR	On-the-Record
SAA	Senior Attorney Adjudicator
SSA	Social Security Administration
SSN	Social Security Number
TAG	Triage Assessment Group

OBJECTIVE

Our objectives were to determine whether the Office of Disability Adjudication and Review (ODAR) had (1) identified risk factors¹ related to hearing office performance and operations and (2) established a process to measure and monitor these risk factors.

BACKGROUND

Administrative law judges (ALJ) and senior attorney adjudicators (SAA), in approximately 165 hearing offices and 5 National Hearing Centers (NHC),² issued over 793,000 dispositions in Fiscal Year (FY) 2011. ALJs, managers, and hearing office staff are required to adhere to ODAR's policies and procedures to ensure each claimant has a fair hearing on his/her claim. In addition, ODAR managers are required to monitor the quality of the hearing process, ensure sufficient resources are directed at key workloads, and address allegations pertaining to deviations from proper case handling.

Earlier congressional and media attention on hearing office activities have highlighted concerns about ALJ and hearing office performance. In a July 2011 joint hearing on the role of Social Security Administration (SSA) ALJs,³ the Chairman of the House Committee on Ways and Means, Subcommittee on Social Security, stated, "...the public is rightly paying attention and raising questions about the integrity of the ALJ hearing process."⁴ The Chairman also highlighted news articles on ALJs, including stories of ALJs with high allowance rates, "extremely" high numbers of cases in comparison with their colleagues, and assignment of cases outside of random rotation, "... raising the specter of inappropriate relationships with counsel."⁵ The Chairman noted, "At a minimum, these articles raise serious questions about the fundamental fairness of this appeals system, and whether it operates as the public has a right to

¹ Throughout the report, we use the term "risk factor" to connote a workload or performance measure that may indicate problems with the underlying process if it varies too far from Agency expectations.

² NHCs were established to conduct video hearings nationwide and operate in Albuquerque, New Mexico; Baltimore, Maryland; Chicago, Illinois; Falls Church, Virginia; and St. Louis, Missouri. NHCs are directed by the Office of the Chief ALJ in Falls Church, Virginia.

³ The Role of Social Security Administration Administrative Law Judges, Hearing before H. Committee on the Judiciary, Subcommittee on Courts, Commercial and Administrative Law, and H. Committee on Ways and Means, Subcommittee on Social Security, 112th Cong., (July 11, 2012).

⁴ Id. Statement of Representative Sam Johnson, Chairman H. Committee on Ways and Means, Subcommittee on Social Security.

⁵ Id.

expect.”⁶ In 2012, we issued two reports addressing specific congressional questions related to these concerns.⁷

To accomplish our objectives, we met with ODAR management to discuss key risk factors related to ALJ and hearing office performance, existing and planned management information reports, and ongoing hearing office monitoring related to key risk factors. We also reviewed management information generated by ODAR’s Case Processing and Management System (CPMS) and Disability Adjudication Reporting Tool to independently analyze hearing office workload performance.⁸

RESULTS OF REVIEW

We found that ODAR had created 19 ranking reports that measured hearing office performance using a single risk factor, such as average processing time or pending cases per ALJ. However, ODAR had not established a process to rank hearing office performance using a combination of risk factors. In FY 2011, ODAR began developing an early monitoring system to measure ALJ performance based on a combination of risk factors, such as number of dispositions, number of on-the-record (OTR) decisions, and frequency of hearings with the same claimant representative. A quality division then reviewed potential issues identified in the ALJ monitoring system to ensure compliance with established policies and procedures. We reviewed hearing office risk factors particular to ALJs to determine whether such information, when alone or combined with ODAR’s ALJ monitoring system outcomes, would provide ODAR management with additional information to assess hearing office management controls. We found large variances in ALJ outcomes within and between hearing offices, indicating that further review of ALJ performance variances in hearing office, as well as a new hearing office monitoring system using a combination of risk factors, would provide ODAR with additional tools to assess hearing office management controls. Moreover, greater analysis of hearing office variance can put issues identified as part of ODAR’s ALJ monitoring system and quality reviews into a broader context.

Management Oversight of Hearing Office Performance

We reviewed ODAR’s management information related to the hearings workload to determine the level of information already available to ODAR managers monitoring hearing office performance factors.

⁶ Id.

⁷ SSA Office of the Inspector General (OIG), *Congressional Response Report (CRR): Oversight of Administrative Law Judge Workload Trends* (A-12-11-01138), February 2012, and *CRR: The Social Security Administration’s Review of Administrative Law Judges’ Decisions* (A-07-12-21234), March 2012.

⁸ See Appendix A for further information on our scope and methodology for this review.

Hearing Office Ranking Reports

ODAR maintained a considerable amount of management information (MI) to monitor hearing office and employee productivity.⁹ Among these were 19 national ranking reports for measuring hearing offices' progress toward meeting productivity and processing time goals using a single performance factor (see Table 1). For each report, ODAR ranked hearing offices using one performance factor. For example, the average processing time (APT) report ranks each hearing office by the average number of days it takes to issue a decision. These reports rank the performance of each hearing office but do not differentiate among each ALJ's performance within the office. In addition, ODAR has not established a process to assess hearing office performance using a combination of performance factors.¹⁰

Table 1: CPMS MI Hearing Office Ranking Reports

Report Name	
Average Processing Time	Pending per ALJ
Average Age of Pending	Percentage of Dispositions Less than 180 Days
Continuance Rate	Percentage of Dispositions over 270 Days
Decision Writing Pending Days	Percentage of Dispositions over 365 Days
Decision Drafted per Month per Decision Writer	Postponement Rate
ALJ Dispositions per Day per ALJ	Productivity Index
Dispositions to Receipt Ratio	Pulling Pending Days
Held per ALJ per Day	Scheduled per ALJ per Day
Held to Schedule Rate	Total Receipts per Day per ALJ
Number of Cases Pulled per Resource	

ODAR has one composite ranking report, the Productivity Index, that measures overall hearing office productivity using such factors as dispositions issued by the ALJs, the work performed by support staff actively involved in processing those dispositions, and assistance provided to ALJs in other hearing offices. According to ODAR, its Office of Budget uses this report to construct hearing office budgets and make staffing allocation decisions. However, ODAR managers are not using the Productivity Index report to monitor the hearing offices' overall performance.

⁹ See Appendix B for more information on examples of management information reports available to ODAR managers and staff.

¹⁰ ODAR management stated that it performed hearing office management reviews on a number of hearing offices annually where management controls and oversight are examined during the reviews, and also monitors hearing offices with low productivity.

Management Oversight of ALJ Performance

Over the last few years, ODAR has been refining its management oversight process, including developing and testing an early monitoring system that measures ALJ performance using a combination of risk factors and establishing a new quality division to ensure compliance with policies and procedures by conducting focused reviews of closed cases.

Monitoring and Review of ALJ Performance

With increasing attention on ALJ performance, ODAR's senior executives have continued refining their management oversight process and identifying issues that require immediate management action. Senior executives in ODAR,¹¹ along with a newly created Triage Assessment Group (TAG)¹² in the Office of the Chief ALJ (OCALJ), worked with ODAR's Division of Management Information and Analysis to develop an ALJ early monitoring system. ODAR began testing an early monitoring system in the summer of 2011 and was still developing and testing this system at the time of our review. For instance, the ALJ monitoring system was devising ways to create new management information after combining multiple risk factors related to ALJ performance, such as number of dispositions, number of OTRs, and the frequency of hearings with the same claimant representative.¹³

According to ODAR executives, an early monitoring system will examine factors that, in and of themselves, would not represent an issue but might become problematic when coupled with other factors. ODAR stated early monitoring system factors were selected based on lessons learned in recent years and new directives to hearing office managers.¹⁴ As noted earlier, ODAR managers were already able to monitor some of these risk factors separately using existing MI reports, but the early monitoring system provides a more comprehensive view of each ALJ's performance. Using the early monitoring system, each of these risk factors is normalized and combined with one another to produce an overall score. Hence, an ALJ with high productivity and a low number of OTRs would have a different score than an ALJ with high productivity and high OTRs. ODAR senior executives can then determine whether those ALJs who scored high on a combination of risk factors need further attention.

¹¹ ODAR's senior executives include the Deputy Commissioner, Assistant to the Deputy Commissioner, Director of the Office of Appellate Operations (OAO), Deputy Director of OAO, Chief ALJ, and Deputy Chief ALJ.

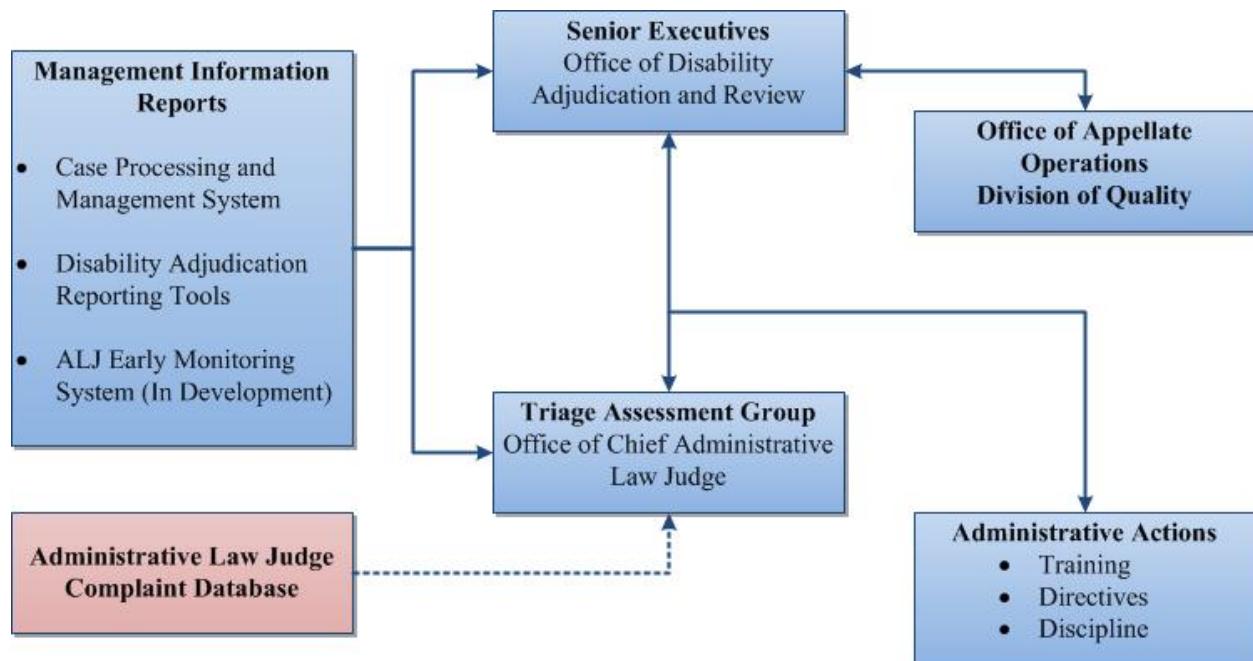
¹² OCALJ formed TAG in FY 2012. TAG members include the Chief ALJ, Deputy Chief ALJ, and Division Directors, as appropriate. TAG meets periodically to review the status of workload and performance issues among the ALJs, such as noncompliance with policies and procedures.

¹³ We are completing work on a separate report to determine whether cases are rotated among ALJs consistent with Agency policy: *Hearing Office Case Rotation Among Administrative Law Judges* (A-12-12-11274).

¹⁴ For instance, in FY 2011, the Commissioner established an annual ceiling of 1,200 dispositions per ALJ (this ceiling was subsequently reduced). In addition, the Chief ALJ established new controls over the transfer of cases from one ALJ's docket to another to ensure proper case rotation.

In FY 2010, ODAR asked the newly created Division of Quality (DQ) in OAO to conduct focused reviews on ALJ-related issues to ensure compliance with Agency policies and procedures (see Figure 1). ALJs issues identified during the testing of the early monitoring system have been added to DQ's workload. DQ has conducted numerous focused reviews of ALJ issues, including the dispositions of ALJ outliers in terms of decisional outcomes and case rotation between ALJs and claimant representatives.¹⁵

Figure 1: ODAR Oversight Process



DQ reported the results of its studies to ODAR's senior executives. DQ focused review findings have led to additional ALJ and SAA training to improve decisional quality as well as compliance with policies and procedures. For instance, after a number of DQ reviews identified ALJ and SAA procedural errors when evaluating treating source opinions and questionable phrasing of claimants' residual functional capacity, OCALJ created a mandatory training program for all adjudicators to address this issue. Other DQ reviews have identified cases where the ALJ was not following Agency policy. In these cases, ODAR's senior executives issue directives requiring the ALJs to comply with policy.¹⁶ If the ALJ fails to comply, ODAR could seek

¹⁵ See Appendix C for additional ALJ studies conducted by SSA.

¹⁶ As appropriate, DQ has referred some issues to the OIG.

disciplinary actions against the ALJ. However, according to SSA, it cannot take disciplinary actions against an ALJ based solely on the ALJ's decisions in a particular case.¹⁷

In addition to the ALJ early monitoring system and other data sources, ODAR's Division of Quality Services (DQS) maintains management information on complaints made against ALJs by the public and employees.¹⁸ Part of DQS' mission is to formulate, develop, communicate and oversee field practices and procedures governing ALJ conduct, performance, and alleged public misconduct complaints in coordination with OCALJ. However, at the time of our review, ODAR had not incorporated information from the ALJ complaint system into the early monitoring system. ODAR management noted that the substantiated complaints against ALJs are handled individually as they move through the disciplinary process.

Key Risk Factors at Hearing Offices

We reviewed hearing office risk factors particular to ALJs to determine whether such information, when alone or combined with early monitoring system outcomes, would provide ODAR management with additional information to assess hearing office management controls. For instance, the variance in performance and outcomes between ALJs in the same office, such as allowance rates, disposition rates, OTRs, dismissal rates, or average processing time, could highlight issues related to processing controls and management oversight. Offices with high variances in more than one key risk factor would be of greater interest to management than offices with only one area of high variance. We understand that one ALJ may affect multiple measures, or an entire office may be at one extreme or another of a risk factor, limiting the utility of such analysis, but analyzing such variances provides another tool to managers overseeing hearing offices. Moreover, this information would also allow ODAR to place the issues identified in an early monitoring system and DQ focus reviews into additional context.

Variance in Allowance Rates in Hearing Offices

In our February 2012 CRR,¹⁹ using FY 2010 CPMS closed case information, we found that most of the outlier ALJs' allowance rates aligned with the hearing offices' average allowance rates. For instance, most of the high allowance outlier ALJs worked in hearing offices that had higher than national average allowance rates. Conversely, most of the low allowance outlier ALJs

¹⁷ SSA's basis for this belief comes from its interpretation of the Merit System Protection Board's ruling *In re Chocallo*, 1 M.S.P.R. 605, 610-11 (1980) (holding that the Board will not find good cause to discipline an ALJ based solely on decision outcomes, and it will carefully examine for satisfaction of the good cause standard any proposed discipline based on an ALJ's performance of an adjudicatory function). For more information see *CRR: The Social Security Administration's Review of Administrative Law Judges' Decisions* (A-07-12-21234), March 2012.

¹⁸ We are conducting a review of the *Administrative Law Judge Alleged Misconduct and Complaint Process* (A-05-11-01131).

¹⁹ SSA OIG, *CRR: Oversight of Administrative Law Judge Workload Trends* (A-12-11-01138), February 2012.

worked in hearing offices with below national average allowance rates. However, we found some cases where there were wide variances in the allowance rates among outlier ALJs in the same hearing office. For example, we noted how one hearing office had an ALJ with an allowance rate of 95 percent, while another had an allowance rate of 9 percent, an 86-percent difference.²⁰

Using the FY 2011 CPMS closed claims database, we identified large variances in allowance rates among ALJs in the same hearing office and small variances in other offices.²¹ For example, in one large hearing office, we found an ALJ had a 94-percent allowance rate while another had an 18-percent allowance rate (see Table 2), a variance rate of 76 percent. We found the variance was only 18 percent in another similarly sized hearing office.

**Table 2: Variance in Allowance Rates Among ALJs
at Two Large Hearing Offices in FY 2011**

Hearing Office	Highest Allowance	Lowest Allowance	Variance
Office 1	94%	18%	76%
Office 2	60%	42%	18%

Variance in Disposition Rates at Hearing Offices

In our February 2012 review,²² we found a direct relationship between ALJ productivity and allowance rates. For instance, 9 of the 12 high-allowance ALJs decided more cases than the average productivity of the other ALJs in the same office. In addition, of the 12 high-denial ALJs, 8 decided fewer cases than the average of their peers in the same hearing office. These hearing offices also had wide ranges in ALJ dispositions among the ALJs in the office. For instance, one hearing office had an ALJ with 1,472 dispositions, while another ALJ in that office had 396 dispositions, a difference of 1,076 dispositions.

²⁰ In a recent hearing, ODAR management stated, “Since FY 2007, there has been more than a two-thirds reduction in the number of judges who allow more than 85 percent of their cases.” *Social Security Disability Programs: Improving the Quality of Benefit Award Decisions*, Hearing before S. Committee on Homeland Security and Government Affairs, Permanent Subcommittee on Investigations, 112th Cong., (September 13, 2012) (Statement of Judge Patricia Jonas, Executive Director, OAO, ODAR).

²¹ We divided the hearing offices into small (fewer than seven ALJs), medium (seven or eight ALJs), and large (more than eight ALJs) to ensure our variance analysis was not skewed by the number of ALJs in an office. We also restricted our analysis to ALJs with 200 or more dispositions in FY 2011 to reduce the chance that we were including newly hired ALJs or ALJs working in offices for only part of a year. Finally, we calculated the decisional allowance rate for ALJs, meaning we did not include dismissals in our calculations.

²² SSA OIG, CRR: *Oversight of Administrative Law Judge Workload Trends* (A-12-11-01138), February 2012.

Our analysis of the FY 2011 CPMS closed claims database showed wide variances in ALJ dispositions in some medium-sized hearing offices and small variances in other offices. For example, the variance in dispositions between 2 ALJs in 1 medium-size hearing office was 712; while the variance in another office was 34 (see Table 3).

Table 3: Variance in ALJ Dispositions Among ALJs at Two Medium Hearing Offices in FY 2011

Hearing Office	Highest Dispositions	Lowest Dispositions	Variance
Office 1	942	230	712
Office 2	551	517	34

Variance in OTR Decisions at Hearing Offices

In our February 2012 report,²³ we discussed a wide variance in the number of OTR²⁴ decisions among ALJs. Our analysis of the 12 high-allowance ALJs identified 3 ALJs with a high percentage of dispositions as OTR decisions. The OTR dispositions accounted for at least 72 percent of each ALJ's dispositions. We learned that some ALJs' preference for full hearings was a reason for the wide variance in the OTR decision rate since the OTR decisions would be provided to the ALJs willing to process them.²⁵

Our analysis of the FY 2011 CPMS closed claims database showed a wide variance in OTR decisions among ALJs in the same hearing office. For example, at one small hearing office with six ALJs, the variance in the OTR rate was 23 percent, while in another office with six ALJs, the variance was 6 percent (see Table 4).

Table 4: Variance in ALJ OTR Rates Among ALJs at Two Small Hearing Offices in FY 2011

Hearing Office	Highest Dispositions	Lowest Dispositions	Variance
Office 1	24%	1%	23%
Office 2	8%	2%	6%

²³ Id.

²⁴ OTR decisions, which are generally favorable, occur when an ALJ or SAA has determined a decision can be issued without a hearing. OTR decisions can also occur when the claimant has waived the right to a hearing.

²⁵ The number of SAAs available to process OTR decisions can change the number of OTR decisions available to ALJs. We are completing work on the *Effects of the Senior Attorney Adjudicator Program on Hearing Workloads* (A-12-13-23002).

Variance in Dismissal Rates at Hearing Offices

In a December 2010 audit,²⁶ we identified wide variances in regional dismissal rates, particularly untimely dismissals.²⁷ Based on our recommendation, SSA agreed to review these variances. In a separate Office of Quality Performance study, it disagreed with 30 percent of the dismissals reviewed, with the greatest disagreement related to withdrawal dismissals.²⁸ The report provided suggestions for improving dismissal quality.

In our analysis of the FY 2011 CPMS closed claims database, we found a difference in ALJ dismissal rates of up to 19 percent in one medium hearing office, while the difference was 3 percent in another office (see Table 5).

**Table 5: Variance in Dismissal Rates Among ALJs
at Two Medium Hearing Offices in FY 2011**

Hearing Office	Highest Dispositions	Lowest Dispositions	Variance
Office 1	31%	12%	19%
Office 2	12%	9%	3%

Variance in APTs at Hearing Offices

ODAR's goal is to reduce its APT to 270 days by the end of FY 2013. The APT for FY 2011 was 360 days. In our June 2011 congressional report,²⁹ we identified a number of factors that allowed ODAR to make progress towards this goal, such as re-allocating resources,³⁰ funding

²⁶ SSA OIG, *Office of Disability Adjudication and Review Hearing Request Dismissals* (A-07-10-20171), December 2010.

²⁷ *Untimely Dismissal*—The request for hearing is untimely and no good cause is found by the ALJ for the hearing request to be granted. Hearings, Appeals and Litigation Law Manual I-2-4-90—*Table of Dismissal Codes* (July 22, 2005).

²⁸ SSA's OQP, *Dismissal Quality Review*, December 2011.

²⁹ SSA OIG, CRR: *The Office of Disability Adjudication and Review's Hearings Backlog and Processing Times* (A-12-11-21192), June 2011.

³⁰ *President's Fiscal Year 2012 Budget Request for the Social Security Administration: Hearing before the S. Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies*, 112th Cong., (March 9, 2011) (statement of Michael J. Astrue, Commissioner of Social Security).

under the *American Recovery and Reinvestment Act* (ARRA)³¹ in FYs 2009 and 2010, and implementing backlog initiatives.

Our analysis of FY 2011 CPMS closed claims database showed a wide variance among APTs for ALJs in large hearing offices. For example, the difference among ALJ APTs in 1 large hearing office with 13 ALJs was 552 days, while another with 13 ALJs was 111 days (see Table 6).

**Table 6: Variance in APT Among ALJs
at Two Large Hearing Offices in FY 2011**

Hearing Office	Highest Dispositions	Lowest Dispositions	Variance
Office 1	761	209	552
Office 2	366	255	111

CONCLUSIONS

We found ODAR had numerous reports that tracked hearing office performance using one hearing office risk factor; however, it did not have a process to assess variances among ALJs in those hearing offices or rank overall hearing office performance using multiple risk factors. During our review, we found that ODAR had begun creating a process to further monitor and assess outlier ALJ performance, including an early monitoring system and related focused reviews of compliance with policies and procedures in ALJ and SAA decisions. While this ALJ monitoring process assists management with its oversight of the hearings process, ODAR would enhance this process by creating an early monitoring system that evaluates multiple risk factors relating to hearing office performance. A hearing office risk factor report would allow ODAR to place the issues identified in an ALJ early monitoring system into context, and would give ODAR managers more information relating to management controls in each hearing office.

³¹ ARRA was signed into law on February 17, 2009, Pub. L No. 111-5, 123 Stat. 115, 185-186, Division A, Title VIII Social Security Administration (2009). ARRA provided SSA with \$500 million to process the increasing disability and retirement workloads caused in part by the economic downturn and the leading edge of the baby boomer retirements. See *The Office of Disability Adjudication and Review's Staffing Plans Under the American Recovery and Reinvestment Act* (A-12-09-29140), December 2009.

RECOMMENDATIONS

To improve management's oversight of hearing office workloads and performance, we recommend SSA:

1. Ensure an ALJ early monitoring system becomes a permanent part of management oversight and use this information to timely address potential anomalies in the hearings process.
2. Create new MI reports combining ALJ-related hearing office risk factors, which could include variances within those factors, and use this information to identify potential processing and management problems at hearing offices.

AGENCY COMMENTS

SSA agreed with the recommendations. See Appendix D for the Agency's comments.

APPENDICES

Appendix A – SCOPE AND METHODOLOGY

To accomplish our objective, we:

- Reviewed applicable laws and Social Security Administration (SSA) policies and procedures, including the Office of Disability Adjudication and Review's (ODAR) Hearings, Appeals, and Litigation Law Manual.
- Reviewed recent congressional testimony pertaining to oversight of SSA's hearings process.
- Reviewed previous Government Accountability Office and Office of the Inspector General reports related to this review.
- Reviewed previous SSA studies and reviews performed by ODAR, the Office of Appellate Operations (OAO), and the Office of Quality Performance.
- Interviewed ODAR headquarters executives, managers and staff at ODAR's Office of the Chief Administrative Law Judge, and managers and staff at the Division of Management Information and Analysis.
- Met with *How MI Doing?* team to review the new Appeals Council features in the application.
- Reviewed Case Processing and Management System (CPMS) and Disability Adjudication Reporting Tools Ad Hoc management information reports to identify risk factors already being tracked by ODAR.
- Obtained Fiscal Year (FY) 2011 workload statistics on administrative law judges (ALJ) from ODAR's CPMS. Using these data, we calculated ALJ allowances, dismissals, productivity, on-the-record decisions, and average processing time and determined the variances of these factors at all hearing offices. We also divided the hearing offices into small (fewer than seven ALJs), medium (seven or eight ALJs), and large (more than eight ALJs) to ensure our variance analysis was not skewed by the number of ALJs in an office. Moreover, we restricted our analysis to ALJs with 200 or more dispositions in FY 2011 to reduce the chance that we were including newly hired ALJs or ALJs working in offices for only part of a year. Finally, we calculated the decisional allowance rate for ALJs, meaning we did not include dismissals in our calculations.

We found that FY 2011 data were sufficiently reliable to meet our objectives. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted this performance audit from April through September 2012 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B – MANAGEMENT INFORMATION REPORTS

The Office of Disability Adjudication and Review (ODAR) created numerous Case Processing and Management System (CPMS) management information (MI) reports and workload listings to monitor hearing office and employee performance. CPMS provides a comprehensive workload management package with two functions: (1) workload control, which provides pending actions and real-time workload information and (2) MI, which provides completed workload information on a daily basis.

National Status Reports

CPMS reports are available to ODAR managers at the national, regional, and hearing office levels. Some examples of CPMS reports that ODAR managers can view at all levels include the following.

- *Caseload Analysis Report:* Compiles information on completed workloads for the previous fiscal year and for each month during the current fiscal year. It also provides running totals and averages for the fiscal year-to-date information. MI in this report includes case receipts and transfers, hearings scheduled, administrative law judge (ALJ) dispositions, decisions written, cases pulled, hearing office processing times, and pending case workloads.
- *Disposition Summary by Age:* A summary of the number of dispositions issued during the reporting month for each ALJ within a hearing office. The report is broken down by age of case at the time of disposition.

Hearing Office Benchmarks

The *No Status Change* report assists hearing office managers by identifying potential bottlenecks in the hearings process. As part of CPMS, hearing office employees assign a status code to each claim as it moves through the process. The status code identifies the processing stage and claim's location. While CPMS uses about 40 status codes to track and process pending claims in the hearing offices, the *No Status Change* report tracks claims in 12 specific status codes. For each of the 12 status codes, ODAR has set a benchmark time (measured in days). If the claim stays in a status code beyond the benchmark time, it will appear in the *No Status Change* report. The claim will continue to appear in the *No Status Change* report until the case moves to the next step in the process and the status code is changed.

Self-Monitoring Reports

In August 2011, after 6 months of testing, ODAR rolled out the *How MI Doing?* reporting tool, which allows ALJs, decision writers, and senior case technicians to monitor and compare their performance to their peers in the office, region, and nation. These reports are viewed as

bottom-up reports, where individuals can view their own performance and compare it to others locally, regionally, and nationally, as opposed to the CPMS and Disability Adjudication Reporting Tools (DART) reports, which are top-down reports that allow the users to drill down to the level of interest.¹

The *How MI doing?* tool tracks ALJ average processing time, dispositions, cases pending, cases scheduled, and Appeals Council remands. The remand metric was added in April 2012 and allows the ALJ to view each case that was remanded and the reason for the remand. ODAR told us that group supervisors, hearing office directors, and hearing office chief ALJs can also view the reports. Moreover, regional management can view the metrics for all ALJs, decision writers, and senior case technicians in their regions and Headquarters can view the statistics for everyone in the nation.

DART Ad Hoc Reports

DART contain a number of ad hoc reports for use in ODAR hearing offices to provide a variety of management information and workload listings designed to supplement CPMS reporting capabilities.² For example, the DART *E1 Favorable Cases* report illustrates all Title II and Title XVI favorable decisions at the hearing office during a specific timeframe. It allows hearing office employees to drill down and view each case at the individual level.

In our August 2009 review,³ we found that ODAR had 66 MI DART reports. We noted that significant time could be saved each month if the manual reports were automated in CPMS and DART and that ODAR should consider automating the manual reports that were most beneficial and most frequently used by its regional and hearing office managers. As of August 2012, ODAR had 92 DART reports available to its managers and staff, an increase of 26 automated reports.

¹ ODAR already had other reports that allowed employees to see their own performance, if not the performance of others. For example, the *Decisions Written/Reviewed Listing*. This report produces a listing of cases that a decision writer wrote and reviewed, as well as the date when the employee started writing the decision as well as finished it. Each decision writer can see his or her own workload statistics.

² For more information on these systems, see Social Security Administration Office of the Inspector General, *Quick Evaluation Report: Office of Disability Adjudication and Review Management Information* (A-07-09-29162), August 2009.

³ Id.

Appendix C – QUALITY REVIEWS OF ADMINISTRATIVE LAW JUDGE DECISIONS

As we noted in our March 2012 review,¹ the Social Security Administration (SSA) initiated additional reviews of administrative law judge (ALJ) decisions. In Fiscal Year (FY) 2010, SSA’s Office of Quality Performance (OQP) began performing post-effectuation reviews of randomly selected ALJ decisions.² OQP completed reviews of 2,044 ALJ decisions issued in FY 2009 and 2010. Since these reviews were post-effectuation, the decisions were not changed, even if they were found to include errors (except for instances when such a decision satisfied the criteria for reopening). The Office of Disability Adjudication and Review (ODAR) used the results of the OQP reviews to ensure ALJs are following policies and procedures and identify necessary training for ALJs and hearing office staff.

In FY 2011, ODAR conducted seven post-effectuation studies on cases based on anomalies that came to its attention. Again, since these studies were post-effectuation, Federal regulations prohibited the decisions from being changed even if they were found to be incorrect.³ Nonetheless, ODAR used the results of the study to develop specific training for its adjudicators.

Also, in FY 2011, ODAR completed its first annual pre-effectuation review of ALJ decisions, reviewing 3,692 randomly selected allowance decisions.⁴ Based on the case review, ODAR’s Appeals Council allowed the ALJs’ decisions to proceed to effectuation, issued final decisions on the cases, or returned the cases to the ALJs with instructions for additional actions.

¹ SSA OIG, Congressional Review Report: *The Social Security Administration’s Review of Administrative Law Judges’ Decisions* (A-07-12-21234), March 2012.

² Post-effectuation reviews occur after the 60-day period a claimant has to appeal the ALJ decision and do not result in a change to the decision. Generally, an ALJ’s decision can only be changed if it has been reviewed within the 60-day appeal period. See 20 C.F.R. §§ 404.968(a)(1), 404.969(b)(1), 416.1468(a), 416.1469(b)(1).

³ Id.

⁴ A pre-effectuation review occurs within the 60 days a claimant has to appeal the ALJ decision. See 20 C.F.R. §§ 404.969(a)(1), 416.1469(a). The decision is subject to change based on the review results. After a pre-effectuation review of a decision, the Appeals Council has the authority to issue its own final decision or return the case for the ALJ to conduct further proceedings. See 20 C.F.R. §§ 404.967, 416.1467.

Appendix D – AGENCY COMMENTS



Social Security

MEMORANDUM

Date: December 21, 2012 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, "Identifying and Monitoring Risk Factors at Hearing Offices" (A-12-12-11289)—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 Amy Thompson at (410) 966-0569.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
“IDENTIFYING AND MONITORING RISK FACTORS AT HEARING OFFICES”
(A-12-12-11289)**

GENERAL COMMENTS

Your report correctly notes that our resulting Hearing Office Productivity Index (HOPI) does not monitor the offices' overall performance, but rather is a tool that identifies anomalous performance that merits further inquiry. The tool uses hearing office MI to identify specific, actionable problems, recommend corrective action, and monitor implementation of the recommendation and continued compliance.

Data anomalies, whether found in an individual measure or a combination of measures, do not correlate directly to problems. Only after investigation into the causes of the data anomalies can we determine whether a problem exists and if so, its root cause.

In 2011, we began work on data aggregations that could serve as indicators of quality issues. These data aggregations examine at least 18 different factors, both individually and in combination. We continue to test different combinations of factors and experiment with weighting factors to determine those that are most predictive of problems.

Identifying and remediating problems at the individual, office, regional, or national level is not a one-dimensional effort. We are using every tool at our disposal to identify and solve problems. We use our case processing systems to collect data on common problems in adjudication then train all our adjudicators quarterly on how to avoid those problems. We provide direct quality feedback to adjudicators through “How MI Doing.” We use statistical studies to identify anomalous behaviors, and we perform focused reviews to identify actionable policy compliance issues. We counsel, train, mentor, and, if necessary, use the disciplinary process to correct chronic problems in following procedure or policy.

RESPONSES TO THE RECOMMENDATIONS

Recommendation 1

Ensure an ALJ early monitoring system becomes a permanent part of management oversight and use this information to timely address potential anomalies in the hearings process.

Response

We agree.

Recommendation 2

Create new MI reports combining ALJ-related hearing office risk factors, which could include variances within those factors, and use this information to identify potential processing and management problems at hearing offices.

Response

We agree.

Appendix E – MAJOR CONTRIBUTORS

Walter Bayer, Director, Chicago Audit Division

Nicholas Milanek, Audit Manager, Crystal City Audit Office

Yaquein Lara, Auditor-in-Charge

Brennan Kraje, Statistician

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