

Informational Report

The Social Security Administration's
Reconsideration Level of Appeal

OIG

Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

MEMORANDUM

Date: June 22, 2020 **Refer To:**

To: The Commissioner

From: Inspector General

Subject: The Social Security Administration's Reconsideration Level of Appeal (A-01-19-50762)

The attached final report presents the results of the Office of Audit's review. The Office gathered information on the Social Security Administration's reconsideration level of appeal.

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



Gail S. Ennis

Attachment

The Social Security Administration's Reconsideration Level of Appeal

A-01-19-50762



June 2020

Office of Audit Report Summary

Objective

To gather information on the Social Security Administration's (SSA) reconsideration level of appeal.

Background

If a claimant disagrees with SSA's initial disability determination, he/she can appeal that determination. In most cases, the first level of review is a reconsideration by the disability determination services. In 1999, SSA eliminated the reconsideration level in 10 States. In these 10 States, the first level of appeal was a hearing by an administrative law judge (ALJ).

In 2019, SSA began reinstating the reconsideration level in the 10 States. SSA reinstated the reconsideration step in California, Colorado, Louisiana, New Hampshire, and New York in January 2019; Pennsylvania in April 2019; Alabama and Michigan in October 2019; Missouri in January 2020; and Alaska in March 2020.

Summary

For this review, we analyzed Calendar Year (CY) 2015 data to allow time for the cases denied to be resolved through later appeals. We also analyzed Fiscal Year (FY) 2018 data because it was the most recent available for ALJ decisions when we started our audit. In CY 2015, claimants waited an average of 310 days to receive an allowance determination at the reconsideration level. This was 535 days fewer than claimants waited in FY 2018 in States where the first level of appeal was a hearing by an ALJ.

Of the 616,917 claimants denied at the reconsideration level in CY 2015, we estimate 86,400 (14 percent) did not take action after the reconsideration denial while 530,500 claimants (86 percent) appealed to an ALJ and/or filed new claims. Of the 530,500 claimants, we estimate 290,000 (55 percent) subsequently received allowance decisions.

In FY 2018, it took on average 79 days longer for a claimant to receive an allowance decision by an ALJ in States with the reconsideration level of appeal. Specifically, it took an average 924 days for a claimant in a State with the reconsideration level to receive an allowance decision by an ALJ, as compared to 845 days for a claimant in a State without the reconsideration level.

Reinstating the reconsideration level allows for a uniform disability process that standardizes services for all claimants nationwide. With reinstatement of the reconsideration level, the Agency estimated \$3.9 billion in program savings over a 10-year period (FYs 2019 to 2028).

TABLE OF CONTENTS

Objective	1
Background	1
Appealing Disability Determinations—Eliminating the Reconsideration Level in 10 States ...	2
Reinstating the Reconsideration Level in the 10 States	3
Methodology	3
Effect of the Reconsideration Level of Appeal.....	4
Claimants Allowed Disability Benefits at the Reconsideration Level in CY 2015	4
Additional Medical Evidence	5
Reconsideration-level Examiner Had Different Opinion	5
Claimants with Higher Age Categories	6
Impairments Met the Duration Requirements for Disability	7
Claimant Previously Denied for Insufficient Evidence	7
Claimants Denied Disability Benefits in CY 2015 at the Reconsideration Level	7
No Action Taken After the CY 2015 Reconsideration Level Denial	9
Appealed or Filed New Claim After the CY 2015 Reconsideration Denial.....	9
Comparing CY 2015 Reconsideration Allowances and Denials	10
Average Number of Days for Allowance Decisions by an ALJ at the Hearing Level in FY 2018.....	11
SSA’s Rationale for Reinstating the Reconsideration Level in the 10 States.....	12
Summary	14
Agency Comments.....	14
OIG Response	14
Appendix A – The Social Security Administration’s Process for Evaluating Disability	A-1
Appendix B – Reports on Reconsiderations.....	B-1
Appendix C – Scope, Methodology, and Sample Results.....	C-1
Appendix D – Characteristics of Claimants Allowed and Denied at the Reconsideration Level in Calendar Year 2015	D-1
Appendix E – Sample Results by State.....	E-1
Appendix F – Agency Comments.....	F-1

ABBREVIATIONS

ACUS	Administrative Conference of the United States
ALJ	Administrative Law Judge
C.F.R.	Code of Federal Regulations
CY	Calendar Year
DDS	Disability Determination Services
DI	Disability Insurance
FY	Fiscal Year
GAO	Government Accountability Office
OIG	Office of the Inspector General
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

OBJECTIVE

Our objective was to gather information on the Social Security Administration's (SSA) reconsideration level of appeal.

BACKGROUND

SSA provides Disability Insurance (DI) and Supplemental Security Income (SSI) disability benefits to eligible individuals.

- The DI program provides monthly benefits to insured workers and their families if the worker becomes disabled.¹
- SSI is a means-tested program that provides a minimum level of income to financially needy individuals who are aged, blind, or disabled.²

An individual is considered disabled under SSA's regulations if he/she cannot engage in substantial gainful activity³ because of a medically determinable physical or mental impairment that can be expected to result in death or has lasted, or can be expected to last, for a continuous period of not less than 12 months.⁴ A claimant is required to prove his/her disability by providing medical and other evidence; however, SSA is responsible for making every reasonable effort to help the claimant get medical reports from the claimant's medical sources.⁵ Additionally, SSA uses a 5-Step sequential evaluation process to determine whether a claimant is disabled.⁶

¹ *Social Security Act*, 42 U.S.C. § 423 (govinfo.gov 2017).

² *Social Security Act*, 42 U.S.C. § 1381a (govinfo.gov 2017).

³ Substantial gainful activity is the performance of significant physical and/or mental activities in work for pay or profit or in work of a type generally performed for pay or profit. 20 C.F.R. §§ 404.1572 and 416.972 (govinfo.gov 2018); SSA, *POMS*, DI 10501.001 (January 5, 2007). As of 2020, countable earnings of employees indicate substantial gainful activity and countable income of the self-employed is substantial if the amount averages more than \$1,260 per month for non-blind individuals or \$2,110 for blind individuals. SSA, *POMS*, DI 10501.015 (January 29, 2020).

⁴ *Social Security Act*, 42 U.S.C. §§ 423(d)(1)(A) and 1382c(a)(3)(A) (govinfo.gov 2017).

⁵ 20 C.F.R. §§ 404.1512(b)(1) and 416.912(b)(1) (govinfo.gov 2019).

⁶ 20 C.F.R. §§ 404.1520(a)(4) and 416.920(a)(4) (govinfo.gov 2018). See Appendix A for additional information on SSA's sequential evaluation process.

Appealing Disability Determinations—Eliminating the Reconsideration Level in 10 States

SSA generally refers claims to the State disability determination services (DDS) for disability determinations.⁷ If a claimant disagrees with the initial disability determination, he/she can appeal it. In most cases, there are four levels of review:

1. reconsideration by the DDS,
2. hearing by an administrative law judge (ALJ),
3. review by the Appeals Council, and
4. review by the Federal courts.⁸

In 1999, “to improve the adjudicative process at all levels,”⁹ SSA began testing several modifications to its disability determination procedures,¹⁰ including eliminating the reconsideration level of appeal in Alabama, Alaska, California,¹¹ Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York, and Pennsylvania.¹² Therefore, as of 1999, in these 10 States, the first level of appeal was a hearing by an ALJ.

In a hearing before the Subcommittees on Social Security and Human Resources in 1999, SSA’s Commissioner stated, “We would eliminate [the reconsideration] step entirely in the appeals

⁷ DDSs are generally State-run agencies that make disability determinations for SSA using the Agency’s regulations, policies, and procedures. *Social Security Act*, 42 U.S.C. §§ 421 (a)(2) and 1383b (a) (govinfo.gov 2017).

⁸ 20 C.F.R. §§ 404.900(a) and 416.1400(a) (govinfo.gov 2018); SSA, *POMS*, DI 12005.000 (January 15, 2020), DI 12010.000 (April 11, 2018), DI 12020.000 (September 20, 2011), and SI 04005.010 (July 1, 1999).

⁹ *Management of Disability Cases, Hearing Before the Subcommittee on Social Security and the Subcommittee on Human Resources of the House Committee on Ways and Means*, 106th Cong., 1st sess., p. 14 (1999) (statement of Kenneth S. Apfel, Commissioner of Social Security).

¹⁰ SSA modifications included adding the single decisionmaker and pre-decision interview models to determine whether they could adequately replace the reconsideration level of appeal. SSA’s single decisionmaker model authorized disability examiners to make certain initial determinations without a medical or psychological consultant’s signature. The pre-decision interview provided a claimant the opportunity to submit further evidence and have a personal interview with the decisionmaker if the evidence in the file did not support a fully favorable determination. Both the single decisionmaker and pre-decision interview models were discontinued before SSA decided to reinstate the reconsideration level of appeal.

¹¹ The elimination of reconsideration in California only included the Los Angeles North and West branches, not the entire State.

¹² SSA referred to these 10 States as prototype States. Throughout the report, we refer to prototype States as non-reconsideration States, and we refer to all other States as reconsideration States.

process and use those savings from the elimination of that step to help strengthen both the initial step as well as to strengthen what our field offices do at the front-end of the process.”¹³

Reinstating the Reconsideration Level in the 10 States

On July 25, 2018 (after about 19 years of testing the elimination of the reconsideration level in the 10 States), SSA testified at a Subcommittee on Social Security hearing¹⁴ about reinstating the reconsideration level of appeal over the next 3 years to the 10 non-reconsideration States.¹⁵ At the hearing, SSA’s Deputy Commissioner for the Office of Analytics, Review and Oversight stated, “Reinstating reconsideration will restore uniformity to [SSA’s] national programs. It will also provide claimants the opportunity to receive a favorable decision more quickly and will aid in alleviating the hearings backlog.”¹⁶

Additionally, as of Fiscal Year (FY) 2018, the number of disability applications was declining, and the Agency no longer had a backlog of cases that were overdue for continuing disability reviews.¹⁷ Therefore, according to SSA, this was the optimal time for it to return to a national process while maintaining service at the initial and reconsideration levels as well as improving service for claimants requesting hearings. SSA began reinstating the reconsideration level of appeal in the 10 States in January 2019 and completed it by March 2020.¹⁸

Methodology

We identified 2 populations in Calendar Year (CY) 2015: 84,866 DI and SSI claimants who were allowed disability benefits at the reconsideration and 616,917 DI and SSI claimants who were denied disability benefits at the reconsideration level. We selected a random sample of

¹³ *Management of Disability Cases, Hearing Before the Subcommittee on Social Security and the Subcommittee on Human Resources of the House Committee on Ways and Means*, 106th Cong., 1st sess., p. 21 (1999) (statement of Kenneth S. Apfel, Commissioner of Social Security).

¹⁴ *Hearing on Examining Changes to Social Security’s Disability Appeals Process, Hearing Before the Subcommittee on Social Security of the House Committee on Ways and Means*, 115th Congress (2018).

¹⁵ *Modifications to the Disability Determination Procedures; End of the Single Decisionmaker Test and Extension of the Prototype Test*, 83 Fed. Reg. 63,965 (December 12, 2018).

¹⁶ *Hearing on Examining Changes to Social Security’s Disability Appeals Process, Hearing Before the Subcommittee on Social Security of the House Committee on Ways and Means*, 115th Congress, p. 7 (2018) (statement of Patricia Jonas, Deputy Commissioner for the Office of Analytics, Review, and Oversight, Social Security Administration).

¹⁷ Once individuals begin receiving DI benefits or SSI payments, SSA is required to periodically perform continuing disability reviews to determine whether they remain medically eligible for the DI or SSI program. The frequency of these reviews depends on SSA’s assessment of the likelihood of medical improvement. 20 C.F.R. §§ 404.1590(d) and 416.990(d) (govinfo.gov 2019).

¹⁸ In January 2019, SSA reinstated the reconsideration level of appeal in California, Colorado, Louisiana, New Hampshire, and New York. In April 2019, SSA reinstated the reconsideration level in Pennsylvania. In October 2019, SSA reinstated the reconsideration level in Alabama and Michigan. In January 2020, SSA reinstated the reconsideration level in Missouri. In March 2020, SSA reinstated the reconsideration level in Alaska.

200 cases (100 allowances and 100 denials) for further analysis. We selected CY 2015 to allow enough time to elapse for any reconsideration denials subsequently appealed to the hearing level to be resolved.¹⁹ Additionally, we identified 309,216 DI and SSI claimants allowed disability benefits at the hearing level in FY 2018. From these, we selected a random sample of 275 claimants for analysis. We compared how long it took claimants who did and did not have reconsiderations to receive allowance decisions by ALJs. We selected FY 2018 because it was the most recent ALJ data available when we started our review. Finally, we requested any analysis SSA had conducted related to its rationale to reinstate the reconsideration level in the 10 non-reconsideration States. See Appendix B for summaries of other reports and studies conducted on reconsiderations. See Appendix C for our scope, methodology, and sample results.

EFFECT OF THE RECONSIDERATION LEVEL OF APPEAL

The DI and SSI claimants who received allowance determinations at the reconsideration level in CY 2015 waited an average of 310 days. This was 535 fewer days than the 845 days claimants waited for an allowance determination in FY 2018 in non-reconsideration States where the first level of appeal was a hearing by an ALJ.

Based on our sample case analysis from the 616,917 claimants denied at the reconsideration level in CY 2015, we estimate 86,400 (14 percent) did not take any further action, resulting in fewer appeals to ALJs while 530,500 claimants (86 percent) appealed to an ALJ and/or filed new claims. Of the 530,500 claimants, we estimate 290,000 (55 percent) subsequently received allowance decisions.

In FY 2018, it took on average 79 days longer for an ALJ in States with a reconsideration level to issue a claimant an allowance decision. Specifically, it took an average 924 days for a claimant in a State with the reconsideration level to receive an allowance decision by an ALJ, as compared to 845 days for a claimant in a State without the reconsideration level.

CLAIMANTS ALLOWED DISABILITY BENEFITS AT THE RECONSIDERATION LEVEL IN CY 2015

Based on our sample of 100 claimants who received DI or SSI disability allowance determinations in CY 2015 at the reconsideration level (from a population of 84,866), we estimate SSA allowed the claims for the following reasons:²⁰

¹⁹ The average processing time for claims appealed to an ALJ in FY 2015 was 480 days. This increased to 543 days in FY 2016 and 605 days in FY 2017 and decreased to 595 days in FY 2018. SSA, Office of Hearings Operations, *Caseload Analysis Reports-National*.

²⁰ The bullets do not total 100 percent because we did not estimate for five claimants previously denied for insufficient evidence or two claimants where the reconsideration-level examiners reaffirmed the initial determinations.

- 53,500 (63 percent) claimants submitted additional medical evidence after the initial-level denials;²¹
- 11,000 (13 percent) claimants had their claims re-evaluated, and the reconsideration-level examiners had different opinions from the initial-level examiners;²²
- 7,600 (9 percent) claimants moved into higher age categories;²³ and
- 6,800 (8 percent) claimants had impairments that met the duration requirements for disability (that is, the impairments had lasted, or were expected to last, for 12 continuous months).²⁴

Additional Medical Evidence

Of the 100 sample cases, 63 claimants received allowance determinations at the reconsideration level because they submitted additional medical evidence after the initial-level denial determinations.²⁵ For example, one claimant from Illinois filed for DI benefits on May 21, 2014 alleging depression as well as pain in her lower back, neck, arm, hand, and leg. On January 22, 2015, the claimant was denied DI benefits because the DDS medical examiner determined the claimant was able to adjust to other work. The claimant appealed the initial denial determination. At the reconsideration level, the DDS received additional medical evidence not available when the DDS made its initial-level determination. That evidence—from an April 16, 2015 medical examination—indicated the claimant had additional pain and numbness. On July 13, 2015, the medical examiner at the reconsideration level determined the claimant was disabled. The claimant waited 418 days from her initial May 21, 2014 application to her July 13, 2015 reconsideration allowance determination.

Reconsideration-level Examiner Had Different Opinion

In 13 of the 100 sample cases, the reconsideration-level examiners had different opinions than the initial-level examiners. In 10 of the 13 cases, the examiners did not receive additional medical evidence at the reconsideration level but determined the claimants were disabled. For

²¹ For the 100 sampled claimants, we selected the reason most material to the reconsideration-level allowance determination. In total, 87 of the 100 sampled claimants submitted additional medical evidence after the initial-level denial determination. For 63 of the 87 claimants, we considered the additional medical evidence the most material to the allowance determination. See Appendix C for additional information.

²² This included 10 sample claimants where no additional medical evidence was submitted after the initial-level denial determination and 3 cases where additional medical evidence was received but the reconsideration-level allowance was based on initial-level evidence.

²³ SSA considers a claimant's age, education, and work experience when it determines whether a claimant is disabled. Generally, age does not affect a younger claimant's ability to adjust to other work; however, it may significantly affect an older claimant's ability to adjust to other work.

²⁴ *Social Security Act*, 42 U.S.C. §§ 423(d)(1)(A) and 1382c(a)(3)(A) (govinfo.gov 2017).

²⁵ In 2014, we determined DDS staff was unable to obtain all evidence at the initial and reconsideration levels because (1) the claimant did not tell the DDS about all sources or (2) the sources did not respond to the DDS' requests. See SSA, OIG, *Completeness of the Social Security Administration's Disability Claims Files*, A-01-13-23082, p. 2 (July 2014).

the remaining three cases, the claimant submitted additional medical evidence after the initial-level denials, but the reconsideration-level examiners based their allowance determinations on initial-level evidence.

For example, a claimant from Georgia filed for SSI disability on June 25, 2014 alleging an impairment of the brain. On December 31, 2014, the initial-level DDS examiner determined the claimant was able to adjust to other work and denied the claim. The claimant appealed the initial denial determination. Although DDS received additional medical evidence after the initial denial, the DDS examiner at the reconsideration level determined a consultative examination performed at the initial level showed the claimant was disabled and allowed the claim. The claimant waited 413 days from his initial June 25, 2014 application to his August 12, 2015 reconsideration allowance determination.

Claimants with Higher Age Categories

At Step 5 of SSA's sequential evaluation process,²⁶ the Agency considers a claimant's age, education, and work experience to determine whether the claimant could adjust to other work. Generally, age does not affect a younger claimant's ability to adjust to other work; however, it may significantly affect an older claimant's ability to adjust to other work. When SSA considers a claimant's age, it uses the following age categories:

- “younger person” (under age 50),
- “closely approaching advanced age” (age 50 to 54), and
- “advanced age” (age 55 or older).²⁷

In nine of the sample cases, the claimants' age categories had changed to higher age categories at the time of the reconsideration-level determination and the reconsideration-level examiners determined the claimants could not adjust to other work. For example, a claimant from Illinois filed for both DI benefits and SSI payments on March 3, 2014 alleging conditions including heart disease and back pain. On June 13, 2014, the initial-level examiner determined the 54-year-old claimant (who was closely approaching advanced age) was not disabled because he could adjust to other work considering his age, education, and work experience. The claimant appealed to the reconsideration level. On May 12, 2015, the reconsideration-level examiner determined the now 55-year-old claimant was unable to adjust to other work because of his advanced age and

²⁶ 20 C.F.R. §§ 404.1520(a)(4) and 416.920(a)(4) (govinfo.gov 2018).

²⁷ 20 C.F.R. §§ 404.1563 and 416.963 (govinfo.gov 2019). See also, SSA, *POMS*, DI 25015.005 (March 22, 2011). In 1978, SSA established age categories for evaluating disability. In 2005, SSA proposed changing the age categories by adding 2 years to each category (for example, “advanced age” category would start at age 57 instead of age 55); however, the proposal was not finalized. *Age as a Factor in Evaluating Disability*, 70 Fed. Reg. 67,101, pp. 67 and 104 (November 4, 2005). SSA considers advancing age to be a limiting factor in a claimant's ability to work and has additional rules for claimants closely approaching retirement age (age 60 or older). SSA, *POMS*, DI 25015.015 (April 5, 2018).

determined the claimant was disabled. The claimant waited 435 days from his March 3, 2014 initial application to his May 12, 2015 reconsideration allowance determination.

Impairments Met the Duration Requirements for Disability

In eight of the sample cases, claimants were denied disability benefits at the initial level because the DDS examiners determined the claimants had impairments that had not lasted, or were not expected to last, for a period of 12 continuous months. At the reconsideration level, the examiners determined the eight claimants had impairments that had lasted, or were expected to last, for 12 continuous months.

For example, a claimant from Connecticut filed for DI benefits on April 7, 2014 alleging impairments including a neck injury and nerve damage as of February 27, 2014. On October 16, 2014, the DDS examiner determined the neck impairment was severe but was not expected to remain severe for 12 continuous months and denied the claim. The claimant appealed the initial denial determination. At the reconsideration level, the claimant submitted additional medical evidence showing his condition was still significant and had lasted 12 continuous months. On March 24, 2015, the reconsideration-level examiner determined the claimant was disabled. The claimant waited for 351 days from his April 7, 2014 initial application to his March 24, 2015 reconsideration allowance determination.

Claimant Previously Denied for Insufficient Evidence

In five of the sample cases, SSA denied claimants at the initial-level because they did not provide the Agency with sufficient information to process their claims. For example, a claimant from Wisconsin applied for SSI disability payments on October 30, 2014 alleging impairments including depression and anxiety. At the initial level, the DDS could not process the claim to determine whether the claimant was disabled because the claimant did not submit required forms despite multiple attempts to contact her. On April 27, 2015, SSA denied the claimant at the initial-level for insufficient evidence. The claimant appealed the initial denial determination. At the reconsideration level, the claimant submitted the required forms, which allowed the DDS to process her claim. As a result, on December 2, 2015, the reconsideration-level examiner determined the claimant was disabled. The claimant waited 398 days from her initial October 30, 2014 application to her December 2, 2015 reconsideration allowance determination.

CLAIMANTS DENIED DISABILITY BENEFITS IN CY 2015 AT THE RECONSIDERATION LEVEL

Of 616,917 claimants, we sampled 100 who were denied disability benefits in CY 2015 at the reconsideration level. We estimate the claimants were denied under the following circumstances:

- 481,200 (78 percent) claimants submitted additional medical evidence to SSA after the initial denials, but the reconsideration-level examiners determined the claimants were not disabled;

- 86,400 (14 percent) claimants did not submit additional medical evidence to SSA after their initial denials, and the reconsideration-level examiners affirmed the initial denial determinations; and
- 49,400 (8 percent) claimants did not provide SSA with sufficient information at the reconsideration level to process the claims.

We estimated 86,400 claimants (14 percent) denied disability benefits in CY 2015 at the reconsideration level did not appeal the reconsideration denials to the ALJ or file new claims while 530,500 (86 percent) subsequently appealed to an ALJ and/or filed new claims.²⁸ We combined the number of individuals who appealed to an ALJ or filed new claims after their reconsideration denials to illustrate claimants can obtain favorable decisions from SSA by taking either action after reconsideration denials. This included approximately

- 370,100 (70 percent) who appealed to an ALJ,
- 86,400 (16 percent) who appealed to an ALJ and also filed new claims,²⁹ and
- 74,000 (14 percent) who filed new claims only.

Of the 530,500 claimants who subsequently appealed to an ALJ and/or filed new claims, we estimate

- 290,000 (55 percent) received allowance decisions,³⁰
- 123,400 (23 percent) received denial decisions, and
- 67,900 (13 percent) had their claims dismissed.³¹

²⁸ If we only consider whether or not individuals appealed their reconsideration denials to an ALJ (and did not file new claims), our estimate would be 26 percent did not appeal to an ALJ—and 74 percent appealed to an ALJ. For the 26 percent, this includes an estimated 86,400 who did not take any action and 74,000 who filed new claims only (for a total of 160,400) divided by our population of 616,917. For the 74 percent, this includes the estimated 370,100 who appealed to an ALJ plus the 86,400 who appealed to an ALJ and also filed new claims (for a total of 456,500) divided by our population of 616,917.

²⁹ As of July 2011, SSA had implemented a new policy in which claimants could no longer generally have two claims for the same type of benefit pending at the same time. Social Security Ruling 11-1p; *Titles II and XVI: Procedures for Handling Requests to File Subsequent Applications for Disability Benefits*, 76 Fed. Reg. 45,309, p. 45,310 (July 28, 2011).

³⁰ This includes approximately 228,300 (79 percent) allowed on appeal and 61,700 (21 percent) allowed on new claims.

³¹ From our sample of 100, 86 claimants appealed and/or filed new claims. Of the 86 claimants, 8 (or 9 percent) were still pending a decision on their appeals or new claims as of January 2020. We did not project an estimate for these 8 claimants. Therefore, the percentages in the bullets with the estimates do not total 100 percent.

No Action Taken After the CY 2015 Reconsideration Level Denial

Of the 100 sampled claimants who were denied disability benefits in CY 2015 at the reconsideration level, as of January 2020, 14 had not appealed the reconsideration denials to an ALJ or filed new claims. For example, one claimant from Minnesota filed for SSI disability payments on September 20, 2013, alleging he had high blood pressure, irregular heart rhythms, anxiety tension, and psychotic episodes. The DDS denied the claim on March 21, 2014 because the DDS medical examiner determined the claimant was able to adjust to other work. The claimant appealed the initial denial determination; however, he did not submit additional medical evidence at the reconsideration level. On January 8, 2015, the DDS examiner at the reconsideration level affirmed the initial denial determination. The claimant waited 475 days from his initial September 20, 2013 application to his reconsideration denial determination on January 8, 2015. The claimant did not appeal the reconsideration denial to an ALJ or file a new claim.

Appealed or Filed New Claim After the CY 2015 Reconsideration Denial

Of the 100 sampled claimants, 86 appealed to an ALJ and/or filed new claims.³² As of January 2020,

- 8 were still pending a decision on their appeals or new claims;
- 11 had their claims dismissed;³³
- 20 had received denial decisions; and
- 47 had received allowance decisions. The 47 includes 37 allowed on appeal and 10 who reapplied and were allowed on new claims.

Of the 47 claimants whose claims were allowed at the appeals level or pursuant to new claims, 38 were receiving approximately \$504,436 in annual disability benefits as of January 2020.³⁴ For example, a claimant from Arizona filed for DI benefits on June 30, 2014 alleging he had arthritis, asthma, diabetes, high blood pressure, and sleep apnea. On November 3, 2014, the DDS denied the claim because the initial-level examiner determined the claimant could adjust to other work. The claimant appealed the initial denial determination. At the reconsideration level,

³² Of the 86, 60 appealed to an ALJ, 14 appealed to an ALJ and also filed new claims, and 12 filed new claims only. For those who filed new claims only, the claimants filed the new claims an average of 672 days after their reconsideration denial, with a low of 138 days to a high of 1,430 days and a median of 550 days after the reconsideration denial.

³³ Of the 11 claimants, 7 did not appear for their scheduled hearings, 2 withdrew their requests for a hearing, and 2 died before their hearing dates.

³⁴ Nine beneficiaries were no longer receiving benefits as of January 2020: four had their disability benefits converted to retirement benefits, two died, two had a closed period of disability, and one returned to work. A closed period of disability is the period of disability with a definite beginning and ending date the adjudicator establishes at the time of adjudication. SSA, *POMS*, DI 25510.001, A (May 15, 2015).

the claimant provided additional medical evidence, but the reconsideration examiner agreed the claimant could adjust to other work and, on January 14, 2015, affirmed the initial denial determination. The claimant appealed the reconsideration denial and, on June 5, 2017, received an allowance decision from the ALJ. The ALJ found the initial and reconsideration examiners did not have the opportunity to review additional medical evidence submitted after the initial and reconsideration level determinations. The claimant waited 1,071 days from his initial June 30, 2014 application to his June 5, 2017 hearing level allowance decision.

COMPARING CY 2015 RECONSIDERATION ALLOWANCES AND DENIALS

Table 1 compares reconsideration allowances and denials in CY 2015.

Table 1: Comparison of Reconsideration Allowances and Denials in CY 2015

Characteristic	Allowance in CY 2015 At Reconsideration Level	Denial in CY 2015 At Reconsideration Level
Population	84,866	616,917
Sample Size	100	100
Average age at determination date	48-years-old	43-years-old
Top Body System	36 claimants - Musculoskeletal	43 claimants – Musculoskeletal
Top Diagnosis	20 claimants – Back Disorders	25 claimants – Back Disorders
Additional medical evidence submitted after initial determination	87	78
Claimants with an attorney representative	44	43
Claimants with a non-attorney representative	20	20
Claimants who alleged impairment(s) changed or alleged new impairment(s)	67 ³⁵	49 ³⁶
Claimants' Level of Education:		
- Too young for school or in school	3 ³⁷	8 ³⁸
- Less than high-school	29	22
- High-school degree	42	44
- At least 1 year of college or more	26	26

³⁵ Of the 67 claimants: 35 alleged both that their impairment(s) changed and new impairment(s), 27 alleged their impairment(s) changed, and 5 alleged new impairment(s).

³⁶ Of the 49 claimants: 32 alleged their impairment(s) changed, 14 alleged both that their impairment(s) changed and new impairment(s), and 3 alleged new impairment(s).

³⁷ All three were SSI claimants who were children enrolled in school.

³⁸ All eight were SSI claimants and included six children enrolled in school and two children too young for school.

Characteristic	Allowance in CY 2015 At Reconsideration Level	Denial in CY 2015 At Reconsideration Level
Average days from date of filing to reconsideration determination	310 days ³⁹	266 days ⁴⁰
Average days from initial determination to reconsideration determination	156 days ⁴¹	139 days ⁴²
Number of claimants receiving disability benefit payments as of January 2020	77 ⁴³	38 ⁴⁴
Annual disability benefit as of January 2020	\$1,117,421 ⁴⁵	\$504,436 ⁴⁶

For additional information related to age of claimants at the allowance and denial determination, list of body systems, and top diagnoses, see Appendix D.

AVERAGE NUMBER OF DAYS FOR ALLOWANCE DECISIONS BY AN ALJ AT THE HEARING LEVEL IN FY 2018

The 275 sampled claimants who received favorable disability decisions in FY 2018 at the hearing level included 198 in reconsideration States (that is, had a reconsideration by the DDS) and 77 in non-reconsideration States (that is, the first level of appeal was a hearing by an ALJ). As shown in Table 2, it took an average of 79 days longer for a claimant to receive an ALJ allowance decision in a reconsideration State in comparison to a non-reconsideration State.

³⁹ The minimum number of days from the date of filing to the date of the reconsideration allowance determination was 65, the maximum was 1,001 days (or almost 3 years), and the median was 309 days.

⁴⁰ The minimum number of days from the date of filing to the date of the reconsideration denial determination was 43 days, the maximum was 585 days (about 1.5 years), and the median was 258 days.

⁴¹ The minimum number of days from the date of initial determination to the date of the reconsideration determination was 43 days, the maximum was 412 days (or just over a year), and the median was 145 days.

⁴² The minimum number of days from the date of initial determination to the date of the reconsideration determination was 10 days, the maximum was 402 days (or just over a year), and the median was 116 days.

⁴³ There were 23 beneficiaries who were no longer receiving benefits as of January 2020. Of the 23 beneficiaries, 11 died, 5 returned to work, 4 had their disability benefits converted to retirement benefits, 2 no longer met the non-medical eligibility criteria for SSI payments, and 1 did not cooperate with SSA.

⁴⁴ The 38 claimants were subsequently allowed disability benefits because they appealed the reconsideration denial determination and/or filed new claims.

⁴⁵ The \$1,117,421 included 57 DI beneficiaries, 17 SSI recipients, and 3 concurrent beneficiaries (that is, a beneficiary who received both DI and SSI disability benefits) who were receiving \$961,441 in annual DI benefits and \$155,980 in annual SSI disability payments. The average monthly DI benefit amount was \$1,375, the average SSI monthly payment was \$717 and the average concurrent monthly benefit was \$857 as of January 2020.

⁴⁶ The \$504,436 included 27 DI beneficiaries, 10 SSI recipients, and 1 concurrent beneficiary (that is, a beneficiary who received both DI and SSI disability benefits concurrently) who were receiving \$419,365 in annual DI benefits and \$85,071 in annual SSI disability payments. The average monthly DI benefit amount was \$1,271, the average SSI monthly payment was \$692 and the average concurrent monthly benefit was \$803 as of January 2020.

Table 2: Wait Time Comparison for an Allowance Decision by an ALJ in FY 2018⁴⁷

Type	Number of Claimants	Average Number of Days	Maximum Number of Days	Minimum Number of Days
Reconsideration States ⁴⁸	198	924	1,936	324
Non-reconsideration States ⁴⁹	77	845	1,792	300
Total	275	902	1,936	300

For example, a claimant from Texas (a reconsideration State), filed for both DI and SSI disability benefits on April 19, 2016 but was denied disability benefits at the initial level on August 19, 2016. The claimant appealed the initial denial but, on March 8, 2017, was denied again at the reconsideration level because the reconsideration-level examiner determined the claimant could perform past relevant work. The claimant appealed the reconsideration denial to the hearing level. On April 16, 2018, the ALJ reversed the reconsideration denial, and the claimant was allowed disability benefits based on additional medical evidence not available to the reconsideration level examiner. This claimant waited a total 727 days (date of filing April 19, 2016 to ALJ decision April 16, 2018) for an allowance decision.

In another example, a claimant from Michigan (non-reconsideration State), filed for DI benefits on January 3, 2017 but was denied disability benefits at the initial level. The claimant appealed to the hearing level. On June 22, 2018, the ALJ reversed the initial denial—based on additional medical evidence not available at the initial level—and the claimant was allowed DI benefits. The total wait time for this claimant to receive an allowance decision was 535 days (date of filing January 3, 2017 to ALJ decision June 22, 2018). See Appendix E for a wait time comparison of sample case results by reconsideration States and non-reconsideration States.

SSA'S RATIONALE FOR REINSTATING THE RECONSIDERATION LEVEL IN THE 10 STATES

SSA originally tested several modifications to the disability determination procedures. However, by 2018, when SSA testified about reconsiderations, the elimination of the reconsideration level of appeal was the only remaining part of the original Prototype design—and was not intended to stand alone. According to SSA, “Due to the changes from the original Prototype design over the years, we [SSA] do not have any information documenting the results of Prototype [elimination of the reconsideration level of appeal in the 10 States].” SSA provided the following rationale related to its decision to reinstate the reconsideration level in the 10 States.

⁴⁷ The 198 cases in the reconsideration States included 7 claims appealed to the Appeals Council but remanded back to the ALJ. The 77 cases in the non-reconsideration States included 2 appealed to the Appeals Council and 2 appealed to the Federal court (for a total of 4 cases) but were remanded back to the ALJ. Therefore, the ALJ issued the final decisions for these 11 cases (7 reconsideration States and 4 non-reconsideration States).

⁴⁸ This includes 20 claimants in California.

⁴⁹ This includes six claimants in California.

- Reinstating the reconsideration step will benefit the public. We [SSA] will have a nationally consistent, more efficient disability process that will provide standardized service to residents in every State.
- Some claimants will receive their benefits sooner at the reconsideration step rather than waiting for a favorable decision by an ALJ.
- Reinstating reconsideration is an integral part of our effort to eliminate the hearings backlog and reduce wait times.
- Fewer cases are appealed to the hearing level, which reduces the backlog and subsequent wait time for all claimants, helping [SSA] accelerate the hearings backlog reduction goal from the end of FY 2022 to FY 2021.
- If we did not reinstate reconsideration, we estimate that the average hearings wait time would be approximately two months longer for everyone at the end of FY 2021.
- We continue to examine ways to improve the disability process, including the reconsideration step.⁵⁰

In addition, SSA estimates \$3.9 billion in net program savings over a 10-year period (FYs 2019 to 2028) with reinstatement of the reconsideration level.⁵¹ Table 3 shows SSA's estimated net increases/decreases in program costs by FY, with the reinstatement of the reconsideration level of appeal. According to SSA, "The [administrative] cost to process a hearing was about four times as much as the cost to process a reconsideration (\$3,600 per hearing vs. \$900 per reconsideration)."

Table 3: Estimated Net Increase/Decrease in Program Costs from Reinstatement of the Reconsideration Level of Appeal, FYs 2019 – 2028

Fiscal Year	Estimated Program Savings (In Millions) ⁵²										Total 2019 - 2028
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	
Increase/ (Decrease)	\$30	\$31	(\$176)	(\$224)	(\$332)	(\$429)	(\$545)	(\$637)	(\$728)	(\$851)	(\$3,861)

⁵⁰ SSA, *Implementation of a Uniform National Disability Process, Reinstating the Reconsideration in 10 States*, SSA Presentation to the Social Security Advisory Board (March 2019).

⁵¹ The estimated net program savings are for the Old-Age, Survivors and Disability Insurance and SSI programs. We did not independently evaluate SSA's estimates.

⁵² The estimated net increase/decrease in program costs are for the Old-Age, Survivors and Disability Insurance and SSI programs. Source: SSA, Office of the Chief Actuary, March 14, 2019.

SUMMARY

Claimants denied disability benefits at the reconsideration level request hearings less frequently—which results in fewer appeals to ALJs at the hearing level, and should lead to a reduction of hearing backlogs and wait times. Beneficiaries who are not allowed until their case is heard at the ALJ level have longer wait times for their favorable decision since they have to wait for a decision at the reconsideration level before their appeal reaches an ALJ. In FY 2018, it took on average 79 days longer for a claimant to receive an allowance decision by an ALJ in States with a reconsideration level.

Reinstating the reconsideration level allows for a uniform disability process that standardizes services for all claimants nationwide. With the reinstatement of the reconsideration level, the Agency estimated \$3.9 billion in program savings over a 10-year period (FYs 2019 to 2028).

AGENCY COMMENTS

SSA had concerns regarding our sample size and estimate related to the number of claimants who appealed denials to an ALJ. The Agency was concerned we combined claimants who filed new claims with claimants who appealed to an ALJ after reconsideration denials in the calculation. SSA believes this might be confusing for the reader. According to SSA, its “... data show that about 20 percent of individuals who filed their initial disability claims in CY 2015 did not appeal their reconsideration determinations to an ALJ. Of those individuals who did appeal their reconsideration determinations, around 47 percent received favorable decisions from an ALJ. These figures are significantly different from OIG’s estimates of 14 percent and 55 percent, respectively.” For SSA’s comments, see Appendix F.

OIG RESPONSE

Our sampling methodologies and statistical results are statistically valid. We calculated the projections at the 90 percent confidence level. These projections are provided with a reasonable level of statistical precision.

We combined claimants who filed new claims with claimants who appealed to an ALJ to illustrate claimants can obtain favorable decisions from SSA by taking either action after reconsideration denials. Our estimate of 55 percent who were subsequently allowed differed from SSA’s estimate of 47 percent because we included claimants who received allowance decisions by an ALJ or were allowed on new claims. SSA’s estimate of 47 percent only includes claimants who received allowance decisions by an ALJ. We separate claimants allowed on appeal by an ALJ or on new claims in our report

- in the section titled “Claimants Denied Disability Benefits in CY 2015 at the Reconsideration Level” and in footnote 30 within the same section and
- in Table C-14 and Table C-15 in Appendix C.

SSA stated its data shows about 20 percent of individuals who filed initial disability claims in CY 2015 did not appeal their reconsideration denials to an ALJ. This differs from our estimate of 14 percent (or approximately 86,400 claimants) because our estimate is the number of claimants denied at the reconsideration level who did not take *any* action after the reconsideration denial—that is, they did not appeal the reconsideration denials to an ALJ or file new claims. See section titled “No Action Taken After the CY 2015 Reconsideration Level Denial” for more information. If we only include individuals who did not appeal their reconsideration denials to an ALJ, our estimate would be 26 percent—which is in line with SSA’s appeal rate of 24 percent per SSA’s *2015 Longitudinal Disability Claims and Appeals Data* chart.⁵³ We included this information in footnote 28 on page 8.



Rona Lawson
Assistant Inspector General for Audit

⁵³ SSA, Office of Retirement and Disability Policy, *Longitudinal Disability Research File*, April 30, 2019. Per SSA’s “2015 Longitudinal Disability Claims and Appeals Data” chart, 75.7 percent of claimants denied at the reconsideration level appealed to an ALJ. Therefore, 24.3 percent did not appeal to an ALJ.

APPENDICES

Appendix A – THE SOCIAL SECURITY ADMINISTRATION’S PROCESS FOR EVALUATING DISABILITY

The Social Security Administration (SSA) has a 5-Step sequential process for evaluating disability for adults that generally follows the definition of disability in the *Social Security Act* and regulations (Figure A–1).¹ An individual is considered disabled under SSA’s regulations if he/she cannot engage in substantial gainful activity² because of a medically determinable physical or mental impairment that can be expected to result in death or has lasted, or can be expected to last, for a continuous period of not less than 12 months.³

At Step 1, SSA considers whether the claimant is still performing substantial gainful activity. If the claimant is not performing substantial gainful activity, the claim is sent for a medical determination of disability. When the claim is initially developed, the adjudicator concurrently requests all the evidence needed for consideration at Steps 2 through 5 of the sequential evaluation process.⁴

At Step 2, SSA determines whether the claimant has a medically determinable impairment and whether such medically determinable impairment is severe.⁵ If a claimant has a medically determinable severe impairment, the Agency proceeds to Step 3 of the sequential evaluation process and considers the Listings of Impairments. If the severity of the impairment meets or medically equals a specific Listing, the individual is found disabled.

¹ SSA uses a different standard to evaluate disability for Supplemental Security Income claimants under age 18. 20 C.F.R. § 416.924 (govinfo.gov 2019).

² Substantial gainful activity is the performance of significant physical and/or mental activities in work for pay or profit or in work of a type generally performed for pay or profit. 20 C.F.R. §§ 404.1572 and 416.972 (govinfo.gov 2018). As of 2019, “countable earnings” of employees indicate substantial gainful activity and “countable income” of the self-employed is “substantial” if the amount averages more than \$1,220 per month for non-blind individuals or \$2,040 for blind individuals. SSA, *POMS*, DI 10501.015 (December 28, 2018).

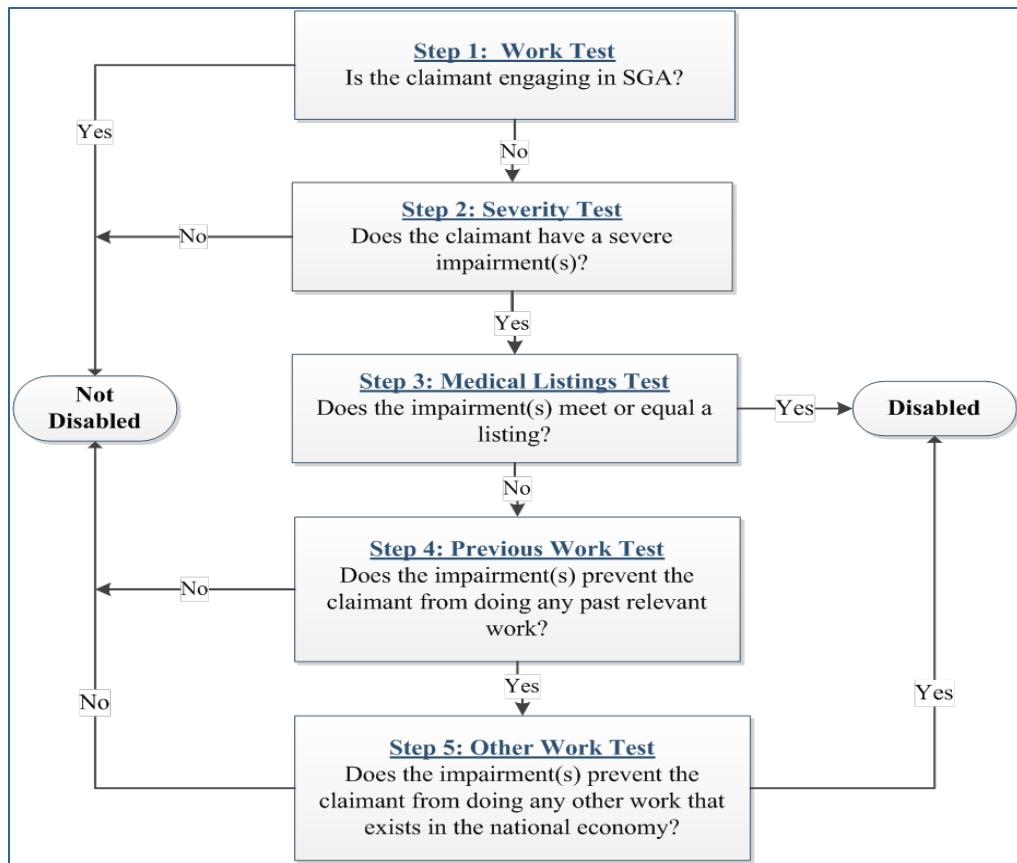
³ *Social Security Act*, 42 U.S.C. §§ 423(d)(1)(A) and 1382c(a)(3)(A) (govinfo.gov 2017).

⁴ If the claimant disagrees with the Agency’s initial disability determination, he/she can appeal within 60 days of the date of notice of the determination. There are four levels of review, including (1) reconsideration by the disability determination services, (2) hearing by an administrative law judge, (3) review by the Appeals Council, and (4) review by the Federal courts. 20 C.F.R. §§ 404.900(a) and 416.1400(a) (govinfo.gov 2018), SSA, *POMS*, DI 12005.000 (January 15, 2020), DI 12010.000 (April 11, 2018), DI 12020.000 (September 20, 2011), and SI 04005.010 (July 1, 1999).

⁵ 20 C.F.R. §§ 404.1521 and 416.921 (govinfo.gov 2019). An impairment or combination of impairments is not severe if it does not significantly limit an individual’s physical or mental ability to do basic work activities.

If the individual's impairment does not meet or medically equal a listing, the Agency looks to Steps 4 and 5. At Step 4, the Agency determines whether the claimant can perform past relevant work, considering his/her residual functional capacity⁶ and the physical and mental demands of the work he/she did. If the claimant can perform past relevant work, the claim is denied. If the claimant cannot perform past relevant work, at Step 5, the Agency determines whether the claimant can perform any other work, considering his/her residual functional capacity, age, education, and past work experience. If the claimant cannot perform any other work, SSA finds him/her disabled.⁷

Figure A–1: SSA's 5-Step Sequential Evaluation for Determining Disability for Adults



⁶ 20 C.F.R. §§ 404.1545(a)(1) and 416.945(a)(1) (govinfo.gov 2019). An individual's impairment(s), and any related symptoms, such as pain, may cause physical and mental limitations that affect what he/she can do in a work setting. The residual functional capacity is the most the individual can still do despite these limitations. SSA assesses the residual functional capacity based on all relevant evidence in the case record.

⁷ SSA has another sequential process for evaluating whether a disabled beneficiary's disability continues, which includes a step for considering the Listings. 20 C.F.R. §§ 404.1594(f) and 416.994(b)(5) (govinfo.gov 2019).

Appendix B – REPORTS ON RECONSIDERATIONS

Below are summaries of studies and reports related to reconsiderations conducted by the Office of the Inspector General (OIG) as well as other stakeholders.

- Urban Institute, *Improving the Social Security Disability Determination Process* (July 2019): The Urban Institute—a nonprofit research organization—examined the Social Security Administration’s (SSA) disability determination process, past efforts to improve the process and challenges and lessons for future reform. The Urban Institute also suggested “...investing in a stronger reconsideration review process would provide the best avenue for achieving better decisions earlier while keeping long-term program costs neutral and keeping administrative expenses modest.” To support this approach, the Urban Institute put forward three options Congress could consider that would allow SSA to test strategies and gather evidence to support decision making.
- Administrative Conference of the United States (ACUS), *Achieving Greater Consistency in Social Security Disability Adjudication: An Empirical Study and Suggested Reforms* (April 2013): ACUS—an independent Federal agency—found Administrative Law Judge (ALJ) hearing level allowance rates were 3 percent lower in non-reconsideration States in comparison to reconsideration States.¹ According to ACUS, the data suggested the reconsideration level may not filter out cases subsequently appealed to the ALJ level to justify its cost. Therefore, ACUS recommended “... [SSA] should hesitate before reinstating the reconsideration level in the prototype [non-reconsideration] states.” According to ACUS, eliminating reconsiderations could save resources and minimize the time between determination at the State disability determination services level and possible appeal to the ALJ hearing level.
- SSA, OIG, *Reinstatement of the Reconsideration Step in the Michigan Disability Determination Services, A-01-10-20153* (April 2010): We contacted SSA officials and staff to obtain information on how reinstating reconsiderations would affect SSA’s budgets and operations. According to SSA, reinstating the reconsideration level of appeal offered several benefits.
 - The Agency would return to a uniform national disability determination process with the same appeal rights for all claimants.

¹ In April 2013, ACUS also issued a statistical appendix that described the results of its statistical analyses. Specifically, ALJ allowance rates were 48 percent in non-reconsideration States compared to 51 percent in reconsideration States. Per ACUS, the 3-percent difference was affected by the higher number of ALJ cases dismissed in non-reconsideration States (18 percent) than reconsideration States (14 percent). If dismissed cases were excluded, the allowance rate would have been similar in non-reconsideration and reconsideration States (58 and 59 percent, respectively). ACUS, *Statistical Appendix on Achieving Greater Consistency in Social Security Disability Adjudication: An Empirical Study and Suggested Reforms*, pp. 50 and 51.

- The reconsideration level would offer a faster first-level of appeal. Therefore, claimants allowed at the reconsideration level would receive benefits much sooner than if they were to go through the entire hearing process.
 - The reconsideration process would moderate the volume of hearing requests.
 - For reconsideration denials, a well-documented claim would go forward to the hearing level—resulting in less documentation needed at the hearing level for an overall more efficient process.
- SSA, OIG, *Status of the Social Security Administration's Disability Process Improvement Initiatives, A-07-00-10055* (June 2002): We reviewed SSA's improvement initiatives related to the disability process, including the elimination of the reconsideration level of appeal in 10 States. Expected benefits of eliminating the reconsideration level included, but were not limited to improved claims accuracy, increased productivity, decreased claims processing times, and improved customer satisfaction. However, we concluded the Agency was concerned with the program costs associated with eliminating the reconsideration level nationally. In addition, the number of cases appealed to the ALJ level in the 10 States exceeded SSA's expectations.
- Government Accountability Office (GAO), *Social Security Disability Disappointing Results from SSA's Efforts to Improve the Disability Claims Process Warrant Immediate Attention, GAO-02-322*, (February 2002): GAO reviewed SSA's initiatives to improve the disability claims process, including the elimination of the reconsideration level of appeal in 10 States. GAO reported preliminary results indicated the elimination of the reconsideration level was moving in the direction of meeting its objective of ensuring claims were awarded as early in the process as possible. However, SSA was concerned additional claimants would appeal to the hearing level—resulting in more awards from ALJs and overall, higher benefit costs. Therefore, SSA acknowledged, in December 2001, it would not extend the elimination of the reconsideration level of appeal beyond the 10 States in its current form. GAO concluded SSA faced the challenge of finding a way to retain the initiative's benefits while also reducing its impact on costs.

Appendix C – SCOPE, METHODOLOGY, AND SAMPLE RESULTS

To accomplish our objective, we:

- Reviewed applicable sections of the *Social Security Act* and Social Security Administration's (SSA) regulations, rules, policies, and procedures.
- Reviewed prior reports and studies related to the reconsideration level of appeal.
- Identified a population of 84,866 claimants—from SSA's 831-disability file—who were allowed Disability Insurance (DI) and Supplemental Security Income (SSI) disability benefits in Calendar Year (CY) 2015 at the reconsideration level of appeal.
- Randomly selected and reviewed a sample of 100 cases¹ from our CY 2015 reconsideration allowance population and determined the following.
 - Reasons most material to the allowance determinations at the reconsideration level, which included the following.
 - **New Additional Medical Evidence Received.** We considered additional medical evidence the most material reason for the allowance if there was additional medical evidence received at the reconsideration level and we could not conclude on the case with one of the reasons listed below.
 - **Reconsideration Level Examiner had a Difference of Opinion.** SSA did not receive additional medical evidence at the reconsideration level or SSA received additional medical evidence at the reconsideration level, but the reconsideration-level examiner based the allowance determination on initial-level medical evidence.
 - **Claimants' Moved Into Higher Age Categories.** The claimant's age category changed to a higher age category at the reconsideration level—and the reconsideration-level examiner determined the claimant could not adjust to other work due to the higher age category.
 - **Impairments Lasted, or Were Expected to Last, for 12 Continuous Months.** The claimant was denied at the initial level because his/her impairment was not expected to last 12 continuous months per the 831-disability file. At the reconsideration level, the examiner determined the claimant had an impairment that had lasted, or was expected to last, for 12 continuous months.
 - **Claimants Were Previously Denied for Not Providing SSA with Sufficient Information.** The claimant was denied at the initial level for insufficient evidence per the 831-disability file, but SSA received the necessary information to process the claim at the reconsideration level.

¹ We replaced 3 of the 100 cases because the medical analysis was not in SSA's electronic disability folder.

- **Reconsideration Level Examiners Reaffirmed the Disability Onset Dates from the Initial-level Determinations.** The claimant was allowed disability benefits at the initial level but appealed the allowance onset date. The reconsideration level examiner affirmed the initial-level onset date.
- Number of claimants who were receiving DI and/or SSI disability benefits as of January 2020.
- Reasons the claimants were not receiving DI and/or SSI disability benefits as of January 2020 (that is, deceased, returned to work, converted to retirement benefits, or other).
- Dollars claimants received annually for DI and/or SSI disability benefits as of January 2020.
- Identified a population of 616,917 claimants—from SSA’s 831-disability file—who were denied DI and SSI disability benefits in CY 2015 at the reconsideration level of appeal.
- Randomly selected and reviewed a sample of 100 cases² from our CY 2015 reconsideration denial population and determined the following.
 - Reasons the claimants received denial determinations at the reconsideration level.
 - Number of claimants who appealed and/or filed a new disability claim after the CY 2015 reconsideration-level denial.
 - Number of claimants subsequently allowed DI and/or SSI disability benefits after the CY 2015 reconsideration-level denial.
 - Number of claimants who were receiving DI and/or SSI disability benefits as of January 2020.
 - Reasons the claimants (who were subsequently allowed) were not receiving DI and/or SSI disability benefits (that is, deceased, returned to work, or other) as of January 2020.
 - Dollars claimants received annually for DI and/or SSI disability benefits as of January 2020.
- Determined the following characteristics for the 200 sample cases (100 allowances and 100 denials at the reconsideration level in CY 2015).
 - Age of the claimants when they were allowed/denied DI and/or SSI disability benefits.
 - Body system affected by the primary impairments for which the claimants were allowed or denied, along with their primary diagnoses codes.
 - Number of claimants who had an attorney or non-attorney representative.
 - Number of claimants who alleged impairments changed and/or new impairments.
 - Claimants’ level of education.

² We replaced 1 of the 100 cases because the medical analysis was not in SSA’s electronic disability folder.

- Average number of days from date of filing to the reconsideration determination.
 - Average number of days from the initial to the reconsideration determination.
- Estimated, for claimants allowed DI and/or SSI disability benefits at the reconsideration level in CY 2015, the number of claimants allowed because of the following reasons:
 - new additional medical evidence received;
 - reconsideration examiner had a difference of opinion;
 - claimants' age categories changed to higher age categories; and
 - impairments lasted, or were expected to last, for 12 continuous months.
- Estimated, for claimants denied DI and/or SSI disability benefits at the reconsideration level in CY 2015:
 - Circumstances under which claimants were denied at the reconsideration level, which included the number of (a) claimants who submitted additional medical evidence to SSA after the initial determination; (b) claimants who did not submit additional medical evidence to SSA after the initial determination; and (c) individuals who did not provide SSA with sufficient information at the reconsideration level.
 - Number of claimants who did not take action after the reconsideration-level denial.
 - Number of claimants who appealed to the hearing level and/or filed a new claim after the reconsideration denial.
- Identified a population of 309,216 claimants—from SSA's 831-disability file and Case Processing and Management System³—who received allowance decisions at the hearing level by an administrative law judge (ALJ) in Fiscal Year 2018.
- Randomly selected and reviewed a sample of 275 cases from our Fiscal Year 2018 ALJ allowance population and determined the following.
 - Number of claimants from a non-reconsideration State (that is, first level of appeal was a hearing with an ALJ) and number of claimants from a reconsideration State (that is, had a reconsideration by the disability determination services).
 - Calculated the number of days it took a claimant to receive an allowance decision in a non-reconsideration State compared to a reconsideration State.⁴
- Requested from SSA any information related to the Agency's decision to reinstate the reconsideration level of appeal, such as any cost-benefit analysis or the administrative costs of reinstating the reconsideration level in the 10 States.

³ The Office of Hearings Operations uses the Case Processing and Management System to process cases and manage hearing office workloads.

⁴ To calculate the number of days, we took the date the claimant filed for disability benefits to the date the ALJ made the allowance decision. Additionally, we included cases that were appealed to the Appeals Council and Federal court but remanded back to the hearing level for the ALJs to make the final allowance decisions.

We conducted our review between October 2019 and January 2020 in Boston, Massachusetts. The entity audited was SSA's Office of Disability Determinations under the Deputy Commissioner of Operations. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We tested the data obtained for our audit and determined them sufficiently reliable to meet our objective.

Sample Results

- Population of CY 2015 Reconsideration Allowances: 84,866
- Sample Size: 100

Table C–1: CY 2015 Reconsideration Allowances: Additional Medical Evidence

Description	Claimants
Sample Results	63
Point Estimate	53,466
Projection Lower Limit	46,124
Projection Upper Limit	60,305

Note: All projections were calculated at the 90-percent confidence level.

Table C–2: CY 2015 Reconsideration Allowances: Reconsideration-level Examiners had Different Opinion

Description	Claimants
Sample Results	13
Point Estimate	11,033
Projection Lower Limit	6,676
Projection Upper Limit	16,861

Note: All projections were calculated at the 90-percent confidence level.

Table C–3: CY 2015 Reconsideration Allowances: Higher Age Categories

Description	Claimants
Sample Results	9
Point Estimate	7,638
Projection Lower Limit	4,055
Projection Upper Limit	12,879

Note: All projections were calculated at the 90-percent confidence level.

Table C–4: CY 2015 Reconsideration Allowances: 12 Months of Continuous Disability

Description	Claimants
Sample Results	8
Point Estimate	6,789
Projection Lower Limit	3,433
Projection Upper Limit	11,854

Note: All projections were calculated at the 90-percent confidence level.

- Population of CY 2015 Reconsideration Denials: 616,917
- Sample Size: 100

Table C–5: CY 2015 Reconsideration Denials: Additional Medical Evidence

Description	Claimants
Sample Results	78
Point Estimate	481,195
Projection Lower Limit	432,456
Projection Upper Limit	521,977

Note: All projections were calculated at the 90-percent confidence level.

Table C–6: CY 2015 Reconsideration Denials: No Additional Medical Evidence

Description	Claimants
Sample Results	14
Point Estimate	86,368
Projection Lower Limit	53,469
Projection Upper Limit	129,656

Note: All projections were calculated at the 90-percent confidence level.

Table C–7: CY 2015 Reconsideration Denials: Insufficient Evidence Submitted

Description	Claimants
Sample Results	8
Point Estimate	49,353
Projection Lower Limit	24,943
Projection Upper Limit	86,190

Note: All projections were calculated at the 90-percent confidence level.

Table C–8: CY 2015 Reconsideration Denials: No Action Taken After Reconsideration Denial

Description	Claimants
Sample Results	14
Point Estimate	86,368
Projection Lower Limit	53,469
Projection Upper Limit	129,656

Note: All projections were calculated at the 90-percent confidence level.

Table C–9: CY 2015 Reconsideration Denials: Claimants Appealed to an ALJ and/or Filed a New Claim After Reconsideration Denial

Description	Claimants
Sample Results	86
Point Estimate	530,549
Projection Lower Limit	487,261
Projection Upper Limit	563,448

Note: All projections were calculated at the 90-percent confidence level.

Table C–10: CY 2015 Reconsideration Denials: Claimants Appealed to an ALJ After Reconsideration Denial

Description	Claimants
Sample Results	60
Point Estimate	370,150
Projection Lower Limit	316,468
Projection Upper Limit	421,026

Note: All projections were calculated at the 90-percent confidence level.

Table C–11: CY 2015 Reconsideration Denials: Claimants Appealed to an ALJ and Filed New Claims After Reconsideration Denial

Description	Claimants
Sample Results	14
Point Estimate	86,368
Projection Lower Limit	53,469
Projection Upper Limit	129,656

Note: All projections were calculated at the 90-percent confidence level.

Table C–12: CY 2015 Reconsideration Denials: Claimants Filed New Claims After Reconsideration Denial

Description	Claimants
Sample Results	12
Point Estimate	74,030
Projection Lower Limit	43,632
Projection Upper Limit	115,462

Note: All projections were calculated at the 90-percent confidence level.

Table C–13: CY 2015 Reconsideration Denials: Claimants Subsequently Allowed on Appeals or New Claims

Description	Claimants
Sample Results	47
Point Estimate	289,951
Projection Lower Limit	237,177
Projections Upper Limit	343,566

Note: All projections were calculated at the 90-percent confidence level

Table C–14: CY 2015 Reconsideration Denials: Claimants Subsequently Allowed on Appeals

Description	Claimants
Sample Results	37
Point Estimate	228,259
Projection Lower Limit	178,512
Projection Upper Limit	281,659

Note: All projections were calculated at the 90-percent confidence level.

Table C–15: CY 2015 Denials: Claimants Subsequently Allowed on New Claims

Description	Claimants
Sample Results	10
Point Estimate	61,692
Projection Lower Limit	34,095
Projection Upper Limit	100,997

Note: All projections were calculated at the 90-percent confidence level.

Table C–16: CY 2015 Reconsideration Denials: Claimants Subsequently Denied on Appeals or New Claims

Description	Claimants
Sample Results	20
Point Estimate	123,383
Projection Lower Limit	84,312
Projection Upper Limit	171,005

Note: All projections were calculated at the 90-percent confidence level.

Table C–17: CY 2015 Reconsideration Denials: Claimants Who Had Appeals Dismissed

Description	Claimants
Sample Results	11
Point Estimate	67,861
Projection Lower Limit	38,822
Projection Upper Limit	108,267

Note: All projections were calculated at the 90-percent confidence level.

Appendix D—CHARACTERISTICS OF CLAIMANTS ALLOWED AND DENIED AT THE RECONSIDERATION LEVEL IN CALENDAR YEAR 2015

The following tables show the characteristics of the 200 sampled claimants (100 claimants allowed and 100 claimants denied) at the reconsideration level in Calendar Year (CY) 2015. Table D–1 shows the ages for the sampled claimants when they were allowed and denied benefits in CY 2015 at the reconsideration level. The claimants’ average age¹ at the reconsideration level allowance was 48-years-old and the average age at the reconsideration level denial was 43-years-old.

Table D–1: Claimants’ Ages at Reconsideration Allowance and Denial in CY 2015

Claimants’ Ages	Number of Claimants (Allowance)	Number of Claimants (Denial)
30-years-old and younger	14	19
31 to 40-years-old	6	17
41 to 50-years-old	19	29
51 to 60-years-old	53	29
61 to 65-years-old	8	6
Total	100	100

Table D–2 shows the body systems listed in the claimants’ reconsideration level disability allowance and denial, with Musculoskeletal and Mental Disorders being the most common body systems for both allowance and denial.

Table D–2: List of Body Systems for Allowance and Denial in CY 2015

Body System	Number of Claimants (Allowance)	Number of Claimants (Denial)
Musculoskeletal System	36	43
Mental Disorders	30	20
Neurological	9	7
Cardiovascular System	8	9
Endocrine Disorders	5	2
Respiratory System	5	6

¹ To calculate the average age, we determined how old the claimants were when they received the reconsideration allowance or denial determination in CY 2015 based generally on the date of birth in Social Security Administration’s (SSA) 831-disability file. The 831-disability file documents the disability decision on initial and reconsideration disability claims.

Body System	Number of Claimants (Allowance)	Number of Claimants (Denial)
Cancer	3	2
Genitourinary Impairments	2	0
Special/Other	1	7
Special Senses and Speech	1	2
Immune System Disorder	0	2
Total	100	100

Table D–3 shows the top primary diagnoses codes in SSA’s records for the claimants at the reconsideration level disability allowance and denial.

Table D–3: Top Diagnoses for Allowance and Denial in CY 2015

Diagnosis	Number of Claimants (Allowance)	Number of Claimants (Denial)
Disorders of Back	20	25
Affective Disorders	14	10
Other and Unspecified Arthropathies	7	7
Osteoarthritis and Allied Disorders	6	5
Schizophrenia	5	0
Diabetes Mellitus	4	2
Chronic Respiratory Disorders	3	2
Epilepsy	3	3
Neurocognitive Disorders	3	1
Anxiety Disorders	3	3
Asthma	2	2
Personality Disorders	2	1
Peripheral Neuropathy	2	0
Chronic Ischemic Heart Disease	2	4
Heart Failure	2	0
Multiple Sclerosis	2	0
Attention Deficit/Hyperactivity Disorder	0	3
Obesity	1	3
Fractures of Lower Limb	1	2
Inflammatory Arthritis	0	2
All Others	18	25
Total	100	100

Appendix E – SAMPLE RESULTS BY STATE

Table E–1 compares sample case results by reconsideration States and non-reconsideration States for the 275 sampled claimants allowed disability benefits at the hearing level by an administrative law judge (ALJ) in Fiscal Year 2018. Wisconsin had the highest average number of days (1,462 days) for a disability decision for the States with reconsideration. Pennsylvania had the highest average number of days (1,024 days) for a disability decision for the States without a reconsideration.

Table E–1: Wait Time Comparison by State for Fiscal Year 2018

State	Number of Claimants	Average Number of Days	Maximum Days	Minimum Days
Arkansas	3	815	1,076	552
Arizona	3	1,099	1,305	758
California	20	996	1,936	384
Connecticut	3	671	752	576
District of Columbia	1	736	736	736
Florida	13	947	1,435	407
Georgia	9	952	1,275	324
Iowa	1	883	883	883
Idaho	1	875	875	875
Illinois	7	846	1,137	451
Indiana	10	812	1,071	560
Kansas	1	602	602	602
Kentucky	5	1,026	1,204	829
Massachusetts	5	630	794	491
Maryland	4	915	1,088	660
Minnesota	6	1,048	1,485	787
Mississippi	2	882	898	865
Montana	1	861	861	861
North Carolina	17	1,108	1,869	501
Nebraska	2	765	786	743
New Jersey	7	1,114	1,335	886
New Mexico	4	917	1,278	683
Nevada	1	798	798	798
Ohio	7	840	1,262	584
Oklahoma	6	907	1,708	487
Oregon	2	1,209	1,746	671
Puerto Rico	3	1,131	1,332	945

State	Number of Claimants	Average Number of Days	Maximum Days	Minimum Days
South Carolina	4	952	1,225	615
South Dakota	1	867	867	867
Tennessee	8	766	1,084	568
Texas	20	774	1,240	435
Utah	1	839	839	839
Virginia	10	939	1,254	616
Washington	5	740	1,158	452
Wisconsin	3	1,462	1,784	900
West Virginia	2	1,001	1,051	951
Total Reconsideration States	198¹	924	1,936	324
Alabama	6	708	899	526
California	6	911	1,094	711
Colorado	4	828	948	704
Louisiana	6	650	786	534
Michigan	12	874	1,711	501
Missouri	8	906	1,764	607
New Hampshire	1	574	574	574
New York	25	824	1,150	300
Pennsylvania	9	1,024	1,792	661
Total Non-Reconsideration States	77²	845	1,792	300
Total	275	902	1,936	300

¹ The 198 claimants in the reconsideration States included 7 claims appealed to the Appeals Council, but were remanded back to the ALJ. The seven appealed to the Appeals Council included two each from North Carolina and Wisconsin and one each from California, Ohio, and Oklahoma. Therefore, the ALJ issued the final decisions for these seven cases.

² The 77 claimants in the non-reconsideration States included 2 appealed to the Appeals Council and 2 appealed to the Federal court (for a total of 4 cases), but were remanded back to the ALJ. The two appealed to the Appeals Council included two claimants from Pennsylvania. The two appealed to the Federal court included one from Michigan and one from Missouri. Therefore, the ALJ issued the final decisions for these four cases.

Appendix F – AGENCY COMMENTS



SOCIAL SECURITY

MEMORANDUM

Date: April 20, 2020

Refer To: S1J-3

To: Gail S. Ennis
Inspector General

A handwritten signature in blue ink that reads "Stephanie Hall".

From: Stephanie Hall
Chief of Staff

Subject: Office of the Inspector General Draft Informational Report, "Social Security Administration's Reconsideration Level of Appeal" (A-01-19-50762) -- INFORMATION

Thank you for the opportunity to review the draft report. We find the report's estimate of individuals who appeal their reconsideration determinations to an administrative law judge (ALJ) relies on a small sample size and uses limited workload determination data to achieve broad-based results. OIG's incorporation of newly filed claims in the calculation introduces a risk of double counting some individuals and does not clearly indicate how many people appeal a reconsideration determination to an ALJ. Consequently, the estimate could be confusing for readers when they compare it with similar information that we produce.

We track filers through the disability application and appeals process so that data from, for example, calendar year (CY) 2015 are representative of all individuals who filed an initial disability claim in that particular year. We base our appeals rate data on that information. Our data show that about 20 percent of individuals who filed their initial disability claims in CY 2015 did not appeal their reconsideration determinations to an ALJ. Of those individuals who did appeal their reconsideration determinations, around 47 percent received favorable decisions from an ALJ. These figures are significantly different from OIG's estimates of 14 percent and 55 percent, respectively.

Please let me know if we can be of further assistance. You may direct staff inquiries to Trae Sommer at (410) 965-9102.

MISSION

By conducting independent and objective audits, evaluations, and investigations, the Office of the Inspector General (OIG) inspires public confidence in the integrity and security of the Social Security Administration's (SSA) programs and operations and protects them against fraud, waste, and abuse. We provide timely, useful, and reliable information and advice to Administration officials, Congress, and the public.

CONNECT WITH US

The OIG Website (<https://oig.ssa.gov/>) gives you access to a wealth of information about OIG. On our Website, you can report fraud as well as find the following.

- OIG news
- audit reports
- investigative summaries
- Semiannual Reports to Congress
- fraud advisories
- press releases
- congressional testimony
- an interactive blog, “[Beyond The Numbers](#)” where we welcome your comments

In addition, we provide these avenues of communication through our social media channels.



[Watch us on YouTube](#)



[Like us on Facebook](#)



[Follow us on Twitter](#)



[Subscribe to our RSS feeds or email updates](#)

OBTAIN COPIES OF AUDIT REPORTS

To obtain copies of our reports, visit our Website at <https://oig.ssa.gov/audits-and-investigations/audit-reports/all>. For notification of newly released reports, sign up for e-updates at <https://oig.ssa.gov/e-updates>.

REPORT FRAUD, WASTE, AND ABUSE

To report fraud, waste, and abuse, contact the Office of the Inspector General via

Website: <https://oig.ssa.gov/report-fraud-waste-or-abuse>

Mail: Social Security Fraud Hotline
P.O. Box 17785
Baltimore, Maryland 21235

FAX: 410-597-0118

Telephone: 1-800-269-0271 from 10:00 a.m. to 4:00 p.m. Eastern Standard Time

TTY: 1-866-501-2101 for the deaf or hard of hearing