
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**OFFICE OF
DISABILITY ADJUDICATION AND REVIEW
HEARING REQUEST DISMISSALS**

December 2010 A-07-10-20171

**EVALUATION
REPORT**



Mission

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

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- Promote economy, effectiveness, and efficiency within the agency.
- Prevent and detect fraud, waste, and abuse in agency programs and operations.
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.
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SOCIAL SECURITY

MEMORANDUM

Date: December 14, 2010

Refer To:

To: The Commissioner

From: Inspector General

Subject: Office of Disability Adjudication and Review Hearing Request Dismissals
(A-07-10-20171)

OBJECTIVE

Our objective was to provide the Social Security Administration (SSA) with recommendations to correct the weaknesses identified in our July 2010 *Congressional Response Report: Office of Disability Adjudication and Review Hearing Request Dismissals* (A-07-10-21049). The objective of that review was to address Senator Claire McCaskill's request regarding Office of Disability Adjudication and Review (ODAR) hearing request dismissals. Specifically, we examined dismissal rates and determined whether ODAR followed applicable laws, policies, and procedures in dismissing hearing requests.

BACKGROUND

ODAR is responsible for holding hearings and issuing decisions as part of SSA's process for determining whether a person may receive benefits. ODAR directs a nationwide field organization staffed with administrative law judges (ALJ) who are tasked with conducting impartial hearings and making decisions on appealed determinations involving Old-Age, Survivors and Disability Insurance (Title II) benefits and Supplemental Security Income (Title XVI) payments.

Regulations specify conditions under which an ALJ may dismiss a claimant's request for hearing (see Appendix C).¹ In Fiscal Year (FY) 2009, ODAR issued dispositions on 660,842 hearing requests, of which 103,071 (16 percent) were dismissals.

¹ 20 C.F.R. §§ 404.957 and 416.1457.

In an August 4, 2009 letter, Senator McCaskill requested that we review dismissals of hearing requests to ensure disabled individuals are afforded the rights and protections required by law and regulations. The Senator also requested we determine whether there were any unusual dismissal trends by individual ALJs or by regions. We issued our report on *Office of Disability Adjudication and Review Hearing Request Dismissals* (A-07-10-21049) to Senator McCaskill on July 14, 2010.

For our review, we analyzed selected hearing request dismissals to determine whether there was documentation in the case folder to support the dismissal. In addition, we examined dismissal rates by region, hearing office, and ALJ.

RESULTS OF REVIEW

We reviewed three dismissal types to determine whether ODAR followed applicable laws, policies, and procedures in dismissing hearing requests. First, we analyzed ALJ dismissals for untimely hearing requests, as requested by Senator McCaskill. In addition, we reviewed the two most prevalent dismissal types: abandonment and withdrawal.²

We found that there were areas where improvements could be made for dismissing hearing requests. Improvements were needed most in the area of untimely hearing request dismissals.

- For untimely hearing request dismissals, our review disclosed cases where dismissals were not (1) appropriate, (2) supported by ODAR requests for claimants' explanations for untimely filing, (3) supported by an ALJ rationale, or (4) processed timely.
- For abandonment dismissals, we found cases where the dismissals were issued without the necessary attempts to contact claimants documented in the case folders.
- For withdrawal dismissals, we found one case where the claimant's case folder did not contain evidence the claimant or the claimant's representative requested the hearing request be withdrawn.

Our analysis of dismissal rates identified wide variances among ODAR regions, hearing offices, and ALJs. ODAR stated that scientific or statistical data do not exist to support an explanation of dismissal rate variances. Although ODAR stated economic and demographic factors may explain the variances, ODAR did not expand on those factors or how they impact variances in dismissal rates.

² See Appendix C.

UNTIMELY HEARING REQUEST DISMISSELS

We reviewed 50 cases dismissed in FY 2009 where ODAR determined the claimant filed the hearing request untimely; that is, not within the prescribed number of days after the prior determination or decision.^{3,4} Our review disclosed cases where dismissals were not

- appropriate,
- supported by ODAR requests for claimants' explanations for untimely filing,
- supported by an ALJ rationale, or
- processed timely.

Dismissals Were Not Appropriate

In 2 of the 50 untimely hearing request dismissals we reviewed, it appeared the ALJ should not have issued an untimely hearing request dismissal.

- One claimant filed the hearing request timely (18 days after the denial determination) yet the ALJ issued an untimely hearing request dismissal.⁵ The claimant appealed the dismissal to the Appeals Council, which remanded the decision back to the ALJ. The ALJ subsequently issued a fully favorable decision. Because the ALJ initially issued a dismissal, the claimant waited an additional 393 days to receive an allowance decision.

³ HALLEX I-2-0-50.C. ODAR generally considers a hearing request timely filed if it is received within 65 days of the prior determination. However, if a request is not received within the 65-day period, but the U.S. Postal Service stamp cancellation or postmark shows that it was mailed within that period, the postmark is used, and the request is considered filed in a timely manner. If a request is received by mail within 70 days of the date of the determination or decision, and the postmark is unreadable or there is no postmark, the request is considered timely filed. HALLEX I-2-0-60. Furthermore, ODAR has established a policy by which, if a claimant files an untimely hearing request but fails to request an extension of time or provide a good cause explanation for the late filing, the hearing office sends the claimant a letter requesting an explanation for the late filing.

⁴ Of the 50 untimely hearing request dismissals we reviewed, 30 claimants filed new applications for benefits. Of the 30 claimants, 7 were allowed benefits, 6 were denied, and 17 had decisions pending at the time of our review. In addition, four claimants appealed the dismissal to the Appeals Council. One claimant's case was remanded back to the ALJ who allowed benefits (this case is discussed later in this report as an inappropriate dismissal). Two claimants' decisions were denied by the Appeals Council, and one claimant had a decision pending at the time of our review.

⁵ During our review, we found the hearing request forms did not consistently include the date the claimant signed the form or the date the hearing office received the form. In addition, when present, the dates on the hearing request forms did not always correspond with the hearing request dates recorded in ODAR's Case Processing and Management System (CPMS). Therefore, any analysis of a hearing request date is based on the date referenced in the *Order of Dismissal* signed by the ALJ and issued to the claimant. Every *Order of Dismissal* we reviewed included a hearing request date, and that date was accurate when compared to the hearing request form or the CPMS data if the hearing request form was not dated.

- Another claimant filed the hearing request untimely (112 days after the denial determination). However, on the hearing request, the claimant alleged she was not notified of her denial within the 65-day timeframe to file an appeal. After the dismissal was issued, the claimant provided additional evidence to the ALJ that the SSA did not inform her of her denial until 112 days after the denial determination. Given the new evidence, the ALJ conducted a hearing and issued a fully favorable decision.⁶ We could not determine whether the ALJ knew, or should have known, of the claimant's situation before issuing the dismissal. However, the circumstances surrounding the dismissal caused the claimant to wait an additional 145 days to receive an allowance decision.

Dismissals Were Not Supported by ODAR Requests for Claimants' Explanations for Untimely Filing

For 7 of the 50 untimely hearing request dismissals we reviewed, there was no evidence in the claimants' case folders that ODAR requested an explanation for late filing from the claimant (good cause).⁷ Therefore, we could not determine whether these claimants were afforded the rights granted to them by ODAR's policy. According to ODAR, when the field office receives an untimely filed hearing request, the field office is instructed to obtain a written statement from the claimant explaining why they filed late.⁸ This statement is forwarded to the hearing office for an ALJ to determine whether there is good cause for missing the deadline. If the field office does not obtain the written statement, the hearing office is required to send the claimant a letter requesting an explanation for late filing.⁹

We recommend that SSA remind hearing office employees to send claimants a letter requesting an explanation for late filing, when required, and document in the claimant's case folder that the letter was sent.

⁶ In technical comments to our draft report, SSA alleged that the claimant was notified of her denial within the 65-day timeframe to file an appeal. However, according to information documented in the electronic folder, the ALJ vacated the dismissal because the claimant was not notified within the 65-day timeframe.

⁷ According to ODAR, all communication at the hearing level should be associated with a claimant's file. This includes notices sent to the claimant and documentation received by the hearing office. Other contact with the claimant, via telephone or from personal visit, that could have an impact on the case should be documented on a *Report of Contact* and placed in the file.

⁸ SSA, POMS GN 03101.020.A.1 and B.1, DI 12010.002, and SI 04030.020.A.1.c.

⁹ HALLEX I-2-0-60.C. The hearing office also sends a request for explanation for late filing if the hearing request is filed at the hearing office and does not include an explanation. However, according to ODAR, the majority of hearing requests are filed at a field office and not a hearing office.

Dismissals Were Not Supported by an ALJ Rationale

In 3 of the 50 untimely hearing request dismissals we reviewed, we could not determine whether the ALJ considered the claimant's good cause explanation. Specifically, the ALJ did not state in the *Order of Dismissal* why the claimant did not establish good cause for missing the deadline to request a hearing. ODAR's policy requires that ALJs include a complete rationale in the *Order of Dismissal* explaining why the ALJ found that the claimant had not shown good cause for late filing.¹⁰

For example, for these three untimely hearing request dismissals, we would have expected to see a rationale similar to one in another case we reviewed. In that case, the claimant filed his hearing request nearly 5 months late, stating he had not read the denial notice carefully and thought he had 1 year to appeal. In the *Order of Dismissal*, the ALJ gave a rationale for issuing the dismissal stating, "The fact that the claimant did not read his Notice of Disapproved Claim carefully does not constitute good cause for untimely filing. The claimant is well educated (3 years of college) and clearly had the ability to read the Notice and to follow the simple instructions provided in order to file an appeal in a timely manner."

We recommend that SSA remind ALJs to ensure hearing request dismissals are supported by complete rationales explaining why the ALJ found that the claimant had not shown good cause for late filing.

Dismissals Were Not Processed Timely

For the 50 untimely hearing request dismissals we reviewed, ODAR took between 6 and 637 days to issue the dismissal to the claimant (see Table 1). In fact, more than half the dismissals took more than 60 days. To identify reasons for delays in processing untimely hearing request dismissals, we reviewed the 10 cases that took more than 120 days from the hearing request date to the dismissal date. We found the following.

Table 1	
Days Between Hearing Request Date and Dismissal Issuance	
Number of Days	Number of Cases
30 days or less	11
31-60	12
61-90	8
91-120	9
More than 120 days	10
Total	50

¹⁰ 20 CFR §§404.911 and 416.1411. HALLEX I-2-0-60, I-2-4-5.B, and I-2-4-15.B.3.b. According to ODAR, a complete rationale contains the reason why the case meets the criteria for dismissal. If the claimant files a request for Appeals Council review of the dismissal, a well articulated rationale will provide the Council with the ALJ's reasoning. It will be the basis on which to apply the review standards of substantial evidence and abuse of discretion.

- Eight cases sat in the hearing office from 61 to 564 days before they were assigned to an ALJ for a dismissal decision. ODAR policy states cases that appear to meet the criteria for dismissal should be immediately assigned to an ALJ.¹¹ However, according to ODAR, cases may not be assigned to ALJs immediately because hearing office staff must first screen all cases to identify those that may meet the criteria for dismissal. Cases identified as possible dismissals may then need further development. For example, hearing office staff may need to request explanations from the claimants for filing the hearing requests untimely.
- One case was assigned to an ALJ within 28 days of receipt in the hearing office; however, the dismissal was not issued for an additional 126 days. According to ODAR, under ideal conditions, it should take approximately 1 week for the ALJ to determine whether to dismiss a case. There are many unusual cases, however, and ALJs may need more time to adequately address the unique factors of each one.
- One case was not recorded in ODAR's CPMS as received from the SSA field office until 92 days after the claimant signed the hearing request; however, upon receipt, ODAR processed the case in 47 days. SSA policy instructs field offices to submit hearing requests to hearing offices immediately.¹²

According to ODAR, a specific timeframe for processing untimely hearing request dismissals has not been established because each case has unique factors. In addition, ODAR stated that processing time can be affected by the administrative process as a whole, including the (1) circumstances of the hearing office, such as workload and staffing; and (2) facts of the specific case, since some cases may be ready for immediate processing while others require additional development.

We recommend that SSA establish controls to ensure hearing requests that appear to meet the criteria for dismissal are assigned to ALJs immediately for timely action.

ABANDONMENT DISMISSELS

We reviewed 50 cases dismissed in FY 2009 because the claimant abandoned the hearing, that is, the claimant did not appear at the scheduled hearing.^{13,14} For seven cases, the claimants' case folders did not contain evidence that ODAR attempted to

¹¹ HALLEX I-2-1-55.D.8.

¹² POMS GN 03103.020.E.

¹³ HALLEX I-2-4-25.A. An ALJ may dismiss a hearing request when neither the claimant who requested the hearing nor the claimant's representative appears at a scheduled hearing and neither shows good cause for the absence.

¹⁴ Of the 50 abandonment dismissals we reviewed, 8 claimants filed a new application for benefits. Four claimants were denied benefits and four claimants had decisions pending at the time of our review. In addition, two claimants appealed the dismissal to the Appeals Council. Both of these claimants' cases were remanded back to the ALJ and had decisions pending at the time of our review.

contact the claimants, as required. These seven claimants did not return the form acknowledging receipt of the hearing notice.¹⁵ This form requests that claimants provide their intentions for attending the hearing.¹⁶ The ALJ may dismiss the hearing request if the claimant has not returned the acknowledgment notice, and the claimant did not provide good cause for failing to appear for the hearing. However, before issuing a dismissal for this reason, the ALJ should ensure all attempts to contact the claimant are clearly documented.¹⁷ Our review of the claimants' case folders did not identify evidence of ODAR's attempts to contact these seven claimants.¹⁸

We recommend that SSA remind hearing office employees to attempt to contact claimants who do not acknowledge receipt of the hearing notice, as required, and document in the claimant's case folder all attempts to contact the claimant.

WITHDRAWAL DISMISSELS

We reviewed 50 cases dismissed in FY 2009 because the claimant withdrew the hearing request.¹⁹ However, one claimant's case file did not contain evidence the claimant wanted to withdraw the hearing request.²⁰ ODAR policy indicates that an ALJ may dismiss a request for hearing, if asked for by the claimant who filed the hearing request, any time before mailing notice of the decision if certain conditions are met. For example, the hearing request may be dismissed if the claimant or claimant's representative has submitted a signed request to withdraw the hearing request or made such a request for withdrawal orally on the record at the hearing.²¹

Although we only identified one case with this condition, SSA may want to consider reminding hearing office employees to document in the claimant's case folder that the claimant wanted to withdraw the hearing request.

¹⁵ Form HA-504 Acknowledgement of Notice of Hearing.

¹⁶ HALLEX I-2-3-20.C.

¹⁷ HALLEX I-2-4-25.C.2.b.

¹⁸ In six of the seven cases, the *Order of Dismissal* alleged contact attempts, but there was no evidence of these attempts in the claimants' case folders. Therefore, we cannot determine whether these contact attempts were actually made.

¹⁹ Of the 50 withdrawal dismissals we reviewed, 8 filed new applications for benefits. Two were allowed benefits, one was denied, and five had decisions pending at the time of our review. In addition, two claimants appealed to the Appeals Council where they had decisions pending at the time of our review.

²⁰ The *Order of Dismissal* alleged that the claimant's representative requested the case be dismissed, but there was no evidence of the request in the claimant's case folder. Therefore, we cannot determine whether this request was actually made.

²¹ 20 C.F.R. §§ 404.957 and 416.1457. HALLEX I-2-4-20.A.

DISMISSAL RATES

We analyzed all dismissals issued in FY 2009 and found that dismissal rates varied among ODAR regions, hearing offices, and ALJs.²² First, we found that dismissal rates varied among ODAR's 10 regions. Specifically, dismissal rates ranged from a low of 12 percent in the Atlanta Region to a high of 18 percent in the Kansas City Region (see Table 2).

Table 2 Percent of Dismissals by Region ²³			
Region	Number of Dispositions ²⁴	Number of Dismissals ²⁵	Dismissal Rate
Kansas City	31,463	5,679	18%
Philadelphia	74,289	11,850	16%
Boston	22,866	3,679	16%
San Francisco	65,476	10,253	16%
New York	63,444	9,443	15%
Chicago	94,614	13,999	15%
Denver	17,675	2,443	15%
Seattle	17,940	2,668	14%
Dallas	89,058	11950	13%
Atlanta	174,838	21205	12%

We also found wide variances in dismissal rates within regions (see Table 3). For example, one hearing office in the Philadelphia Region had a dismissal rate of 10 percent, while another hearing office in the region had a dismissal rate of 25 percent.

²² We analyzed all dismissals issued in FY 2009 except the 15,165 favorable dismissals (see Appendix C). Favorable dismissals are typically issued under SSA's Informal Remand initiative. Under this initiative, cases are screened and remanded to the DDS to determine whether an allowance can be issued without a hearing. If the DDS can issue an allowance, a dismissal is issued at the hearing level. According to SSA, the Informal Remand initiative could also impact region and hearing office dismissal rates. For example, if a particular state had a lower or higher number of allowances after informal remands, these numbers would have an impact on the dismissal rates for a particular region or hearing office. Therefore, we excluded favorable dismissals from this analysis.

²³ This table does not include 9,162 dispositions, including 1,236 dismissals, issued by National Hearing Centers or the National Screening Unit. These offices hold video hearings or issue on the record decisions to assist hearing offices across the country.

²⁴ The data file we received from ODAR's CPMS contained slightly fewer cases than ODAR identified in its workload reports for FY 2009. However, this difference is immaterial.

²⁵ The number of dismissals includes all cases with a dismissal. Therefore, if a concurrent Title II and XVI case had a favorable decision on one Title and a dismissal on the other Title; we counted the case as a dismissal. According to SSA, this could have had an impact on dismissal rates by region and hearing office since dismissals on concurrent cases are much more common than other dismissals. Specifically, any region or hearing office that processed more than the average number of dismissals on concurrent cases would most likely have a higher dismissal rate. However, we did not perform analysis to determine the impact dismissals on concurrent cases had on dismissal rates by region or hearing office.

In fact, the Philadelphia-East, Pennsylvania, Hearing Office had the highest dismissal rate in the Nation at 25 percent.²⁶

Region	Hearing Office Dismissal Rates	
	High	Low
Philadelphia	25%	10%
San Francisco	23%	11%
Boston	23%	14%
Atlanta	22%	7%
Kansas City	21%	13%
Chicago	21%	10%
Dallas	20%	9%
New York	19%	5%
Denver	19%	11%
Seattle	15%	10%

Finally, we identified a wide variance in dismissal rates by ALJ. Although 95 percent of ALJs had dismissal rates of 25 percent or less, the dismissal rates by ALJ varied from 0 to 60 percent. Of the 1,176 ALJs in our review, 64 had dismissal rates between 26 and 60 percent.²⁷ We are unaware of any reasons why these ALJs would have disproportionately high dismissal rates.

ODAR stated that scientific or statistical data do not exist to support an explanation of dismissal rate variances. Although ODAR stated economic and demographic factors may explain the variances, it did not expand on those factors or how they impact variances in dismissal rates. We recommend that SSA determine whether factors are present that explain variances in dismissal rates among ODAR's regions, hearing offices, and ALJs.

CONCLUSION AND RECOMMENDATIONS

We found that there were areas where improvements could be made for dismissing hearing requests. Improvements were needed most in the area of untimely hearing request dismissals. We also found wide variances in dismissal rates among ODAR's regions, hearing offices, and ALJs. While variations in dismissal rates do not necessarily indicate improper dismissals, SSA does not have scientific or statistical data that explains the dismissal rate variances.

²⁶ See Appendix D for dismissal rates for all hearing offices.

²⁷ ODAR reports 1,182 ALJs in FY 2009. However, we limited this analysis to ALJs that issued 100 or more dispositions in FY 2009 to ensure the ALJs processed a sufficient number for accurate analysis.

Therefore, we recommend that SSA:

1. Remind hearing office employees to send claimants a letter requesting an explanation for late filing, when required, and document in the claimant's case folder that the letter was sent.
2. Remind ALJs to ensure hearing request dismissals are supported by complete rationales explaining why the ALJ found that the claimant had not shown good cause for late filing.
3. Establish controls to ensure hearing requests that appear to meet the criteria for dismissal are assigned to ALJs immediately for timely action.
4. Remind hearing office employees to attempt to contact claimants who do not acknowledge receipt of the hearing notice, as required, and document in the claimant's case folder all attempts to contact the claimant.
5. Consider reminding hearing office employees to document in the claimant's case folder that the claimant wanted to withdraw the hearing request.
6. Determine whether factors are present that explain variances in dismissal rates among ODAR's regions, hearing offices, and ALJs.

AGENCY COMMENTS

SSA generally agreed with our recommendations.²⁸ See Appendix E for the full text of SSA's comments.



Patrick P. O'Carroll, Jr.

²⁸ In commenting on our draft report, SSA disagreed with Recommendation 3, stating that information included in a September 29, 2010 memorandum from the Chief ALJ to hearing office employees supported existing procedures. In the memorandum, the Chief ALJ reminded hearing office employees that hearing requests appearing to meet the criteria for dismissal should be assigned to ALJs immediately to avoid delays in processing. The Chief ALJ's reminder satisfies the intent of our recommendation; therefore, we consider SSA to have taken appropriate action on Recommendation 3.

Appendices

[**APPENDIX A**](#) – Acronyms

[**APPENDIX B**](#) – Scope and Methodology

[**APPENDIX C**](#) – Office of Disability Adjudication and Review Dismissal Types

[**APPENDIX D**](#) – Fiscal Year 2009 Dismissal Rates by Region and Hearing Office

[**APPENDIX E**](#) – Agency Comments

[**APPENDIX F**](#) – OIG Contacts and Acknowledgments

Appendix A

Acronyms

ALJ	Administrative Law Judge
C.F.R.	Code of Federal Regulations
CPMS	Case Processing and Management System
DDS	Disability Determination Services
FY	Fiscal Year
HALLEX	Hearings, Appeals, and Litigation Law Manual
HOCALJ	Hearing Office Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
POMS	Program Operations Manual System
SSA	Social Security Administration

Scope and Methodology

To address Senator McCaskill's request related to Office of Disability Adjudication and Review (ODAR) hearing request dismissals, we:

- Reviewed applicable Federal laws and regulations and parts of the Hearings, Appeals, and Litigation Law Manual related to administrative law judge (ALJ) hearings.
- Reviewed prior Office of the Inspector General, Government Accountability Office, and Social Security Advisory Board reports related to the ALJ hearings process.
- Obtained all dispositions in Fiscal Year 2009 from ODAR's Case Processing and Management System (CPMS).
- Selected a sample of 50 cases each of untimely hearing request, abandonment, and withdrawal dismissals.¹ We reviewed documentation in the claimant's case folders to determine whether ODAR followed applicable policies and procedures in dismissing hearing requests.
- Analyzed dismissal rates by ODAR region, hearing office, and ALJ level.
- Obtained information from ODAR regarding policies and procedures for dismissing hearing requests.

Our work was conducted at the Office of Audit in Kansas City, Missouri, from September 2009 through February 2010. The entity reviewed was ODAR. We determined that the data used in this report were sufficiently reliable given the review objective and their intended use. We conducted our review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspections*.

¹ We had to replace 2 untimely hearing request dismissals and 1 abandonment dismissal in each sample of 50 dismissals. Though they were originally selected in our samples, they were replaced when we discovered they appeared to be miscoded in ODAR's CPMS. The untimely hearing request dismissals should have been coded as administrative dismissals while the abandonment dismissal should have been coded as an untimely hearing request dismissal.

Appendix C

Office of Disability Adjudication and Review Dismissal Types

Type of Dismissal	Dismissal Definition	Number of Dismissals FY 2009 ¹
Abandonment	The claimant did not appear for the hearing, and the administrative law judge (ALJ) did not find good cause for failure to appear.	46,675
Withdrawal	The claimant withdrew the hearing request.	29,587
Favorable	A lower level Social Security Administration (SSA) component issued a revised favorable decision, rendering the need for a hearing moot.	15,165
Untimely Hearing Request	The hearing request was untimely, and the ALJ did not find good cause for late filing.	6,155
Other	The Appeals Council remanded an earlier application for the same claim and time period.	3,328
Administrative	The claimant did not have a right to a hearing.	3,234
Death	The claimant died.	2,534
Special	Dismissal code used under management direction.	2,254
Res Judicata	SSA made a previous determination on the same facts and issues. The previous determination became final.	664
Abandonment Pre-hearing	The claimant did not appear for the pre-hearing conference.	54
Improper Party	An improper party filed the hearing request.	39
Total		109,689

¹ The Office of Disability Adjudication and Review (ODAR) reported 103,071 dismissals in Fiscal Year 2009. We identified more than the ODAR reported number of dismissals for two reasons related to concurrent Title II and XVI cases. First, ODAR counts dispositions based on the Title XVI disposition. Therefore, if the Title XVI decision in a concurrent case is favorable and the Title II disposition is a dismissal, ODAR includes the case in the count of favorable decisions. However, we included the case as a dismissal for our review. Second, concurrent cases can have different dismissal types for each title. For example, the Title II disposition could be a withdrawal dismissal and the Title XVI disposition could be a favorable dismissal. We counted each dismissal type for our analysis since each type has its own criteria.

Appendix D

Fiscal Year 2009 Dismissal Rates by Region and Hearing Office¹

Location	Number of Dispositions	Dismissals	Dismissal Rate
Boston Region	22,866	3,679	16%
Providence, RI	2,613	592	23%
Portland, ME	2,961	499	17%
Manchester, NH	2,499	400	16%
Boston, MA	6,375	978	15%
Springfield, MA	3,090	456	15%
Hartford, CT	2,946	430	15%
New Haven, CT	2,372	324	14%
Boston Regional Office Staff	10	0	0%
New York Region	63,444	9,443	15%
Jericho, NY	4,918	729	15%
Syracuse, NY	5,001	910	18%
Bronx, NY	4,622	736	16%
Buffalo, NY	6,540	960	15%
Albany, NY	4,932	604	12%
New York, NY	7,681	1,496	19%
White Plains, NY	2,516	488	19%
Voorhees, NJ	3,902	425	11%
Brooklyn, NY	7,266	1,326	18%
Queens, NY	3,118	507	16%
Newark, NJ	4,990	668	13%
Ponce, PR	1,260	182	14%
San Juan, PR	5,374	371	7%
Mayaguez, PR	904	41	5%
New York Screening Unit	420	0	0%

¹ This table does not include 9,162 dispositions, including 1,236 dismissals, issued by National Hearing Centers or the National Screening Unit. These offices hold video hearings or issue on the record decisions to assist hearing offices across the country. In addition, the number of dismissals includes all cases with a dismissal. Therefore, if a concurrent case had a favorable decision on one Title and a dismissal on the other Title, we counted the case as a dismissal.

Location	Number of Dispositions	Dismissals	Dismissal Rate
Philadelphia Region	74,289	11,850	16%
Philadelphia-E, PA	4,522	1,141	25%
Pittsburgh, PA	4,544	1,020	22%
Philadelphia, PA	4,844	1,031	21%
Elkins Park, PA	5,384	1,060	20%
Washington, D.C.	2,476	376	15%
Baltimore, MD	4,732	802	17%
Morgantown, WV	3,463	558	16%
Harrisburg, PA	5,647	903	16%
Johnstown, PA	2,772	343	12%
Cranberry, PA	4,644	705	15%
Roanoke, VA	3,978	589	15%
Wilkes-Barre, PA	4,798	708	15%
Dover, DE	2,239	320	14%
Norfolk, VA	3,194	453	14%
Richmond, VA	3,514	459	13%
Charlottesville, VA	2,849	334	12%
Huntington, WV	5,112	509	10%
Charleston, WV	5,577	539	10%
Atlanta Region	174,838	21,205	12%
Miami, FL	3,279	735	22%
Greensboro, NC	5,894	621	11%
Atlanta-N, GA	5,597	559	10%
Florence, AL	3,657	597	16%
Montgomery, AL	6,026	1,106	18%
Jacksonville, FL	6,454	1,000	15%
Charlotte, NC	6,990	962	14%
Mobile, AL	6,953	1,061	15%
Charleston, SC	4,923	551	11%
Raleigh, NC	6,954	879	13%
Nashville, TN	4,845	449	9%
Orlando, FL	5,662	731	13%
Fort Lauderdale, FL	7,381	1,011	14%
Columbia, SC	5,156	569	11%
Memphis, TN	5,506	842	15%
Tampa, FL	7,884	929	12%
Savannah, GA	4,856	564	12%
Jackson, MS	4,731	702	15%
Greenville, SC	6,618	635	10%
Birmingham, AL	8,908	1,132	13%

Location	Number of Dispositions	Dismissals	Dismissal Rate
Middlesboro, KY	1,730	239	14%
Knoxville, TN	6,054	570	9%
Chattanooga, TN	6,036	532	9%
Atlanta, GA	10,132	1,086	11%
Paducah, KY	2,322	272	12%
Lexington, KY	5,606	646	12%
Louisville, KY	4,192	460	11%
Tupelo, MS	4,463	452	10%
Hattiesburg, MS	5,489	550	10%
Macon, GA	4,825	358	7%
Kingsport, TN	5,715	405	7%
Chicago Region	94,614	13,999	15%
Columbus, OH	4,569	693	15%
Grand Rapids, MI	4,705	781	17%
Dayton, OH	2,871	318	11%
Oak Park, MI	6,058	1,002	17%
Detroit, MI	5,515	1,108	20%
Oak Brook, IL	5,036	1,072	21%
Cleveland, OH	6,702	845	13%
Cincinnati, OH	4,756	750	16%
Milwaukee, WI	5,211	982	19%
Flint, MI	3,667	559	15%
Lansing, MI	3,719	581	16%
Minneapolis, MN	7,678	1,114	15%
Chicago Video Center	899	132	15%
Indianapolis, IN	5,665	775	14%
Peoria, IL	3,927	552	14%
Chicago, IL	4,994	685	14%
Evanston, IL	5,238	671	13%
Madison, WI (Satellite)	965	108	11%
Orland Park, IL	5,754	627	11%
Evansville, IN	3,082	316	10%
Fort Wayne, IN	3,232	328	10%
Chicago Regional Office Staff	2	0	0%
Chicago Screening Unit	369	0	0%
Dallas Region	89,058	11,950	13%
Metairie, LA	3,978	795	20%
New Orleans, LA	5,319	962	18%
Dallas-N, TX	7,199	1,156	16%
Little Rock, AR	7,649	691	9%

Location	Number of Dispositions	Dismissals	Dismissal Rate
Dallas-DT, TX	6,960	1,023	15%
Houston, TX	5,473	793	14%
Houston-DT, TX	4,915	707	14%
Alexandria, LA	6,209	865	14%
Shreveport, LA	4,688	659	14%
Fort Smith, AR	3,054	409	13%
Tulsa, OK	5,628	752	13%
Fort Worth, TX	4,996	641	13%
McAlester, OK	1,305	151	12%
San Antonio, TX	9,120	1,049	12%
Oklahoma City, OK	6,648	719	11%
Albuquerque, NM	5,683	578	10%
Dallas Regional Office Staff	208	0	0%
Dallas Screening Unit	26	0	0%
Kansas City Region	31,463	5,679	18%
Kansas City, MO	5,275	1,121	21%
Omaha, NE	2,475	425	17%
Creve Coeur, MO	6,621	1,170	18%
Wichita, KS	4,732	810	17%
Springfield, MO	2,611	432	17%
St. Louis, MO	6,125	1,246	20%
West Des Moines, IA	3,624	475	13%
Denver Region	17,675	2,668	15%
Denver, CO	5,232	1,006	19%
Colorado Springs, CO	3,359	547	16%
Billings, MT	2,809	436	16%
Salt Lake City, UT	3,541	385	11%
Fargo, ND	2,734	294	11%
San Francisco Region	65,476	10,253	16%
Los Angeles-DT, CA	3,842	900	23%
Downey, CA	2,543	574	23%
Pasadena, CA	2,561	544	21%
Los Angeles-W, CA	3,845	785	20%
San Diego, CA	3,229	641	20%
Oakland, CA	3,289	545	17%
San Bernardino, CA	4,647	733	16%
Las Vegas, NV	1,588	229	14%
Orange, CA	3,895	595	15%
Long Beach, CA	4,022	579	14%
Phoenix, AZ	5,029	702	14%

Location	Number of Dispositions	Dismissals	Dismissal Rate
San Jose, CA	2,763	360	13%
San Francisco, CA	3,777	507	13%
Stockton, CA	3,426	454	13%
Sacramento, CA	5,724	729	13%
Santa Barbara, CA	1,639	209	13%
Fresno, CA	3,695	450	12%
Tucson, AZ	2,976	370	12%
San Rafael, CA	2,282	267	12%
Honolulu, HI	701	80	11%
San Francisco Screening Unit	3	0	0%
Seattle Region	17,940	2,443	14%
Seattle, WA	7,990	1,215	15%
Eugene, OR	2,660	388	15%
Portland, OR	4,061	512	13%
Spokane, WA	3,229	328	10%

Appendix E

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: November 16, 2010

Refer To: S1J-3

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

From: James A. Winn /s/
Executive Counselor
to the Commissioner

Subject: Office of the Inspector General Draft Evaluation Report, "Office of Disability Adjudication and Review Hearing Request Dismissals" (A-07-10-20171)--INFORMATION

Thank you for the opportunity to review the draft report. Please see the attached response to your findings and recommendations.

Please let me know if we can be of further assistance. Please direct staff inquiries to Rebecca Tothero, Acting Director, Audit Management and Liaison Staff, at (410) 966-6975.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT
EVALUATION REPORT, “OFFICE OF DISABILITY ADJUDICATION AND REVIEW
HEARING REQUEST DISMISSEALS” (A-07-10-20171)**

We offer the following responses to your recommendations and other technical comments:

COMMENTS ON RECOMMENDATIONS

Recommendation 1

Remind hearing office employees to send claimants a letter requesting an explanation for late filing, when required, and document in the claimant's case folder that the letter was sent.

Response

We agree. In his September 29, 2010 memorandum, our Chief Administrative Law Judge (CALJ) included this reminder to hearing office employees.

Recommendation 2

Remind ALJs to ensure hearing request dismissals are supported by complete rationales explaining why the ALJ found that the claimant has not shown good cause for late filing.

Response

We agree. The CALJ included this in his September 29, 2010 memorandum.

Recommendation 3

Establish controls to ensure hearing requests that appear to meet the criteria for dismissal are assigned to ALJs immediately for timely action.

Response

We disagree. The CALJ's September 29, 2010 memorandum serves to support our existing procedures, and we do not need to establish additional controls.

Recommendation 4

Remind hearing office employees to attempt to contact claimants who do not acknowledge receipt of the hearing notice, as required, and document in the claimant's case folder all attempts to contact the claimant.

Response

We agree. The CALJ's September 29, 2010 memorandum included this reminder.

Recommendation 5

Consider reminding hearing office employees to document in the claimant's case folder that the claimant wanted to withdraw the hearing request.

Response

We agree. The CALJ's September 29, 2010 memorandum included this reminder.

Recommendation 6

Determine whether factors are present that explain variances in dismissal rates among ODAR's regions, hearing offices, and ALJs.

Response

We agree in principle, and we are taking the following actions:

We just started a study of ALJ dispositions, including dismissals. We will draw samples and review dispositions at the national and regional level, but not at the ALJ level. We plan to complete this study by summer 2011, and it may provide some insight concerning the variances you describe. We will make that assessment when we conclude the study.

In addition, the Office of Appellate Operations, which supports our Appeals Council (AC), is collecting structured data regarding each case the AC reviews, including data on dismissals. We may be able to use that data in the future when considering other studies.

Irrespective of any studies we may do, it is important to understand that many factors drive variances. These factors, many outside of an ALJ's control, may include the number of claims filed, the number of informal remands granted by the State agency, and workload transfers between regions. Demographics and economic factors also affect the number and type of claims filed, which ultimately can affect dismissal rates.

Appendix F

OIG Contacts and Staff Acknowledgments

OIG Contacts

Mark Bailey, Director, Kansas City Audit Division

Tonya Eickman, Audit Manager

Acknowledgments

In addition to those named above:

Karis Crane, Auditor

For additional copies of this report, please visit our Website at www.ssa.gov/oig or contact the Office of the Inspector General's Public Affairs Specialist at (410) 965-3218. Refer to Common Identification Number A-07-10-20171.

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