

Audit Report

Claimant Representatives at the
Disability Determination Services
Level

A-01-13-13097 | February 2014

OIG Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

MEMORANDUM

Date: February 27, 2014 **Refer To:**
To: The Commissioner
From: Inspector General
Subject: Claimant Representatives at the Disability Determination Services Level (A-01-13-13097)

The attached final report presents the results of our audit. Our objective was to analyze certain characteristics of claims with representatives at the disability determination services.

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



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Attachment

Claimant Representatives at the Disability Determination Services Level

A-01-13-13097



February 2014

Office of Audit Report Summary

Objective

Our objective was to analyze certain characteristics of claims with representatives at the disability determination services (DDS).

Background

A claimant may appoint a qualified individual to represent him/her in pursuing his/her claim. This individual, a representative, may be an attorney or a non-attorney and must not be disqualified or suspended from acting as a representative in dealings with the Social Security Administration (SSA) or prohibited by any law from acting as a representative. Attorneys must be in good standing with the court in which they were admitted to practice and non-attorneys must be of good character and capable of giving valuable help.

To ensure claimants receive competent services from their representatives and improve the efficiency of its administrative process, SSA formulated the *Rules of Conduct and Standards of Responsibility for Representatives*. For example, a representative must assist a claimant in complying, as soon as practicable, with SSA or the DDS' requests for information or evidence.

Our Findings

We found some differences between claims with a representative and claims without a representative. The degree to which representatives assist claimants can vary greatly.

Our 275 sample cases had 379 DDS-level determinations because 104 had a representative for both the initial claim and reconsideration levels.

Of the 379 determinations, in

- 84, we found no evidence the representative assisted with the claim. However, there was no indication that DDS staff ever contacted 26 of the 84 representatives. Also, 10 of the 84 representatives were paid fees.
- 154, the representative assisted with filing the claim but did not assist the DDS with claim development in the disability determination.
- 141, the representative assisted throughout the claims process.

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ABBREVIATIONS

ALJ	Administrative Law Judge
C.F.R.	Code of Federal Regulations
CR	Claims Representative
CY	Calendar Year
DDS	Disability Determination Services
DI	Disability Insurance
FY	Fiscal Year
NADE	National Association of Disability Examiners
NADR	National Association of Disability Representatives
NCDDD	National Council of Disability Determination Directors
NCSSMA	National Council of Social Security Management Associations
NOSSCR	National Organization of Social Security Claimants' Representatives
OGC	Office of the General Counsel
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 analyze certain characteristics of claims with representatives at the disability determination services (DDS).¹

BACKGROUND

The Social Security Administration (SSA) provides Disability Insurance (DI) benefits and Supplemental Security Income (SSI) payments to eligible individuals under Titles II and XVI of the *Social Security Act*.² A person may file an application for disability benefits in person, by telephone, or on the Internet. It is the field office claims representative's (CR) role to ensure complete and accurate claims development at the field office.

If the claimant meets the non-disability criteria for benefits, the CR forwards the application to the DDS in the State that has jurisdiction for the disability determination. The DDS then reviews the claims file and makes required efforts to obtain medical or other evidence before making an initial determination. If a claimant disagrees with the initial DDS determination, he/she can file an appeal for reconsideration within 60 days of the date SSA notifies him/her of the determination. Generally, the administrative review process includes (1) an initial determination by the DDS (2) reconsideration by the DDS,³ (3) a hearing by an administrative law judge (ALJ), and (4) an Appeals Council review.

A claimant may appoint an attorney or qualified non-attorney to represent him/her in pursuing his/her claim. This representative must not be disqualified or suspended from acting as a representative in dealings with SSA or other agencies or prohibited by any law from acting as a representative. Attorneys must be in good standing with the court in which they are admitted to practice, and non-attorneys must be of good character and capable of giving valuable help. SSA presumes that attorneys are in good standing and non-attorneys possess the necessary qualities, absent evidence to the contrary.

¹ Throughout this report, claims at the DDS level include all initial and reconsideration claims.

² *Social Security Act §§ 201 et seq. and 1601 et seq., 42 U.S.C. §§ 401 et seq. and 1381 et seq.*

³ The reconsideration step of the administrative review process is eliminated for DDSs participating in the Disability Redesign Prototype (Alabama, Alaska, California—Los Angeles North and Los Angeles West Branches, Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York, and Pennsylvania). A reconsideration involves a thorough DDS review of all evidence from the initial determination and any new evidence.

SSA formulated the *Rules of Conduct and Standards of Responsibility for Representatives*⁴ to ensure claimants receive competent services from their representatives and improve the efficiency of SSA's administrative process.⁵ According to these Rules, a representative must

- act with reasonable promptness in obtaining and submitting information and evidence;
- assist the claimant in complying with SSA or the DDS' requests for information or evidence;
- conduct his/her dealings efficiently, fairly, and in an orderly manner; and
- conduct business with SSA electronically and in the manner prescribed by the Agency.⁶

Generally, a representative who wants to charge or collect a fee for services provided in any proceeding before SSA under the *Social Security Act* must first obtain SSA's authorization through SSA's fee petition or fee agreement process.⁷ If the representative is an attorney or non-attorney who is eligible for direct payment, some, or all, of the fee SSA authorizes is paid to the representative from withheld DI and/or SSI past-due benefits.

To conduct our review, we identified 857,855 claimants with a disability determination from the DDS in Calendar Year (CY) 2010 who also had a representative. From this population, we randomly selected 275 cases for detailed analysis.⁸ See Appendix A for our scope and methodology. We also contacted stakeholders to obtain their thoughts on claimant representatives at the DDS level. See Appendix B for more information.

RESULTS OF REVIEW

We found some differences between claims with a representative and claims without a representative. Having a representative who assisted with the claim slightly increased the likelihood of an allowance. Conversely, claims with representatives that were not involved had a lower allowance rate. Additionally, initial claims with representatives took longer to process

⁴ 20 C.F.R. §§ 404.1740 and 416.1540; SSA, POMS GN 03970.010 (August 13, 2013).

⁵ SSA has a process in place for employees to refer potential criminal violations, fee violations, or violations of the *Rules of Conduct and Standards of Responsibility for Representatives* to the Office of the Inspector General (OIG) or SSA's Office of the General Counsel (OGC); see SSA, POMS, GN 03970.015 (April 13, 2012), GN 03970.016 (November 27, 2012), and GN 03970.017 (August 13, 2013).

⁶ As of March 16, 2012, on matters for which the representative requests direct fee payment, he/she must file certain medical appeals electronically. SSA, POMS GN 03970.010 B4 (August 13, 2013).

⁷ SSA, POMS, GN 03920.001 (August 31, 2009). In July 2013, the OIG initiated a review on *Controls over Claimant Representative Fee Petition Payments* (A-05-13-13061).

⁸ We reviewed SSA's electronic disability folder for documents signed, reviewed, or provided by the representative, such as the disability report, function report, or medical evidence. We also looked for reports of contact and notes of phone conversations.

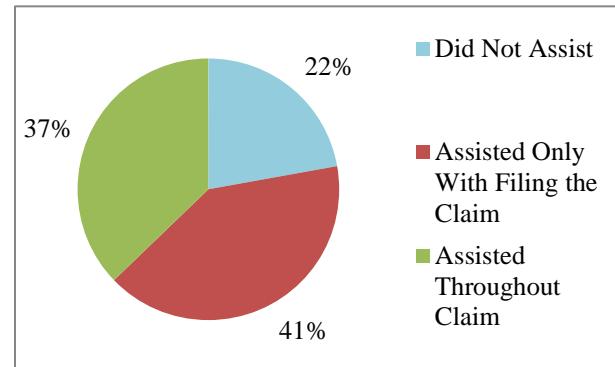
than the national average while reconsiderations with representatives were processed more quickly than the national average.⁹

Our 275 sample cases had 379 determinations at the DDS level with claimant representation because 104 had a representative at both the initial claim and reconsideration levels. Of these 379 determinations, 149 were DI only, 64 were SSI only, and 166 were both DI and SSI (see Appendix C for more information).

Of the 379 determinations, in

Figure 1: Results of Review

- 84, we found no evidence that the representative assisted with the claim;
- 154, the representative assisted with filing the claim, but did not assist the DDS with claim development in the disability determination; and
- 141, the representative assisted throughout the claims process.¹⁰



Allowance Rates

Overall, allowance rates for cases with a representative were generally the same as the national average but were higher when the representative assisted with the claim than when they did not.

According to SSA, the national average allowance rate for initial claims in CY 2010 was 35 percent. In our sample, we found that initial claims with representatives had a 36-percent allowance rate. Specifically, the allowance rate was

- 40 percent in cases where the representative assisted only with filing the claim;
- 38 percent in cases where the representative assisted throughout the claims process; and
- 29 percent in cases where the representative did not assist with the claim.

According to SSA, the national average allowance rate for reconsiderations nationwide in CY 2010 was 13 percent. In our sample, reconsiderations with representatives had an average 13-percent allowance rate. Specifically, the allowance rate was

- 11 percent in cases where the representative assisted only with filing the claim;

⁹ The differences in allowance rates and processing times could be affected by a number of other factors which we did not review. For example, representatives might accept only clients who they believe would qualify for disability benefits.

¹⁰ For example, these representatives provided evidence or had telephone conversations with DDS staff.

- 19 percent in cases where the representative assisted throughout the claims process; and
- 11 percent in cases where the representative did not assist with the claim.

DDS Processing Times

Overall, initial claims with a representative took longer than average to process, while reconsiderations with a representative were processed more quickly.¹¹

According to SSA, the average DDS processing time for initial claims nationwide in Fiscal Year (FY) 2010 was 92 days.¹² In our sample, initial claims with representatives were processed in an average of 105 days—13 days longer than the national average. Specifically, in cases where the representative assisted only with filing the claim, the processing time was 96 days. Additionally, in cases where the representative assisted throughout the claims process, the processing time was 113 days.

According to SSA, the average processing time for reconsiderations nationwide in FY 2010 was 87 days. In our sample, reconsiderations with representatives were processed in an average of 82 days—5 days quicker than the national average. Specifically, in cases where the representative assisted in filing the claim, the processing time was 71 days. Additionally, in cases where the representative assisted throughout the claims process, the processing time was 113 days.

Figure 2: Processing Time for Initial Claims

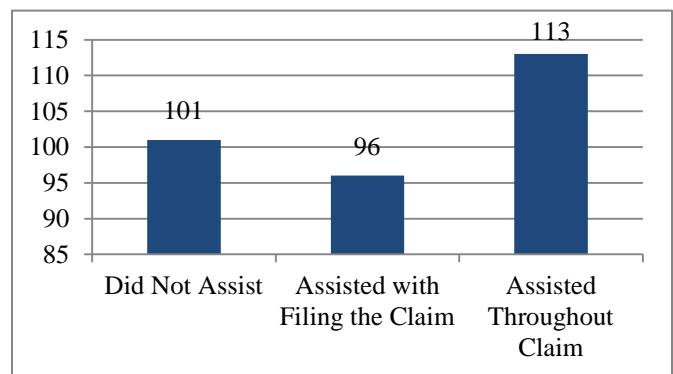
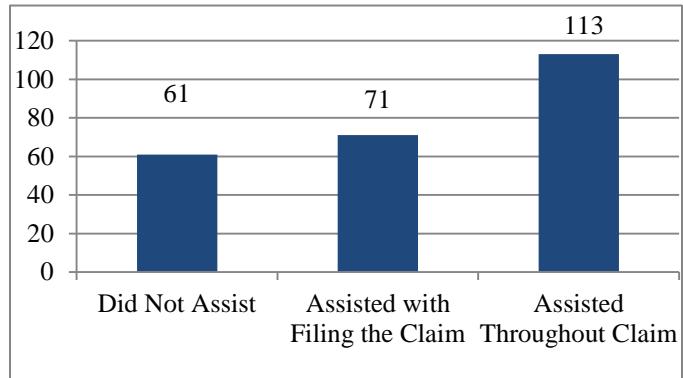


Figure 3: Processing Time for Reconsiderations



¹¹ We considered processing time to be from the date the DDS received the claim until the date of the DDS determination.

¹² For purposes of this report, we are using DI processing times.

Representative Did Not Provide Assistance

Of the 379 determinations at the DDS level, we did not find any evidence that the representative provided assistance in 84.¹³ However, in 22 of the 84 disability determinations, the claimant appointed the representative after SSA sent the claim to the DDS. The top four diagnosis codes were back disorders, affective disorders, osteoarthritis and allied disorders, and organic mental disorders, which were 49 percent of the total cases.

Table 1: Summary of Cases in Which the Representative Did Not Provide Assistance

	Initial Claims	Reconsiderations
Number of Cases	56	28
Average Processing Time	101 days	61 days
Allowance Rate	29 percent	11 percent
Disability Forms Completed Online	1	12
Attorney ¹⁴	39	22
Non-Attorney ¹⁵	17	6
Fee Agreement on File	42	24
Fee Paid	9	1
Average Fee Paid	\$2,187	\$538

For example, a New Jersey man applied for DI benefits in December 2009. In January 2010, he appointed an attorney to assist with his claim. The claimant completed the forms required by the DDS himself, even though the DDS sent a copy of the forms to the representative. We found no evidence the representative assisted the claimant or the DDS. The DDS allowed the claim in June 2010, and the representative received a fee of \$1,892.

In another example, a Tennessee man filed for DI benefits and SSI payments in May 2009. He appointed a non-attorney representative from a company hired by the hospital to help with his claim, and this representative did not require a fee from the claimant. After the DDS denied his initial claim, he filed a reconsideration and hired a different non-attorney representative from a disability advocacy firm. We found no evidence that this representative provided any assistance

¹³ In 12 of the 84 cases, it appeared the DDS had not provided the claimant representatives copies of letters sent to the claimant. We provided these 12 cases to SSA. The Agency reviewed these and determined this happened because of systems issues or human error. In October 2013, SSA informed us it began making systems changes in 2011 to ensure all claimant representatives automatically receive copies of all claimant correspondence. The Agency expects to complete these systems updates for all DDSs in early 2014.

¹⁴ All of the cases in which the attorney representative did not appear to provide assistance had fee agreements on file.

¹⁵ Five of the cases in which the non-attorney representative did not appear to provide assistance had fee agreements on file, and these were all professional representatives. In the remaining cases, the non-attorney representative had waived the fee.

at the DDS level. The claimant completed his own forms even though the DDS sent letters to the representative. The DDS denied the reconsideration, and the claimant filed an appeal, which an attorney advisor allowed at the hearing level without holding a hearing. The representative did not appear to provide assistance and was paid a \$1,527 fee.

DDS Did Not Always Seek Help from Representative

In 26 of the 84 claims in which the representative did not assist with the claim, the DDS did not contact the representative before making the determination. In these cases, the representative did not receive copies of notices sent to the claimant before the final determination. If the DDS contacted the representative, he/she may have assisted with the claim. The DDS is required to send copies of notices and requests to both the claimant and his/her representative.¹⁶

Representative Assisted with Filing the Claim Only

Of the 379 determinations at the DDS level, 154 had a representative who assisted with filing the claim but did not assist the DDS with claim development. These representatives completed disability reports that SSA staff generally complete. Of the 154 disability determinations, 58 were at the initial level while 96 were reconsiderations. The top four diagnosis codes were back disorders, affective disorders, osteoarthritis and allied disorders, and other and unspecified arthropathies, which were 47 percent of the total cases.

Table 2: Summary of Cases in Which the Representative Assisted with Filing the Claim

	Initial Claims	Reconsiderations
Number of Cases	58	96
Average Processing Time	96 days	71 days
Allowance Rate	40 percent	11 percent
Disability Forms Completed Online	23	64
Attorney	27	75
Non-Attorney	31	21
Fee Agreement on File	36	87
Fee Paid	14	10
Average Fee Paid	\$1,947	\$2,253

For example, a New York man filed for disability benefits in April 2010. His attorney representative submitted the application but did not submit the required disability report. The field office requested this document twice and when the representative submitted it, it was incomplete. The field office forwarded this information to the DDS, which allowed the claim in

¹⁶ SSA, POMS, DI 31001.010 B 9 (August 2, 2012).

August 2010 without any additional assistance from the attorney. SSA paid the attorney a \$2,393 fee from the claimant's past-due benefits.

In another example, a Tennessee woman filed for DI benefits and SSI payments in August 2010. She appointed a non-attorney representative and had an agreement to pay 25 percent of past-due benefits up to \$6,000 if SSA allowed her claim. At the initial level, the representative did not provide assistance, and the DDS denied the claim. In February 2011, the representative filed a reconsideration and submitted the required disability report to SSA. The representative did not provide any other assistance. The claimant submitted all required forms and information to the DDS herself, even noting that it took her several days to complete all the forms. She stated she had to write the answer to one question at a time and rest her right arm and hand. The DDS denied the reconsideration. The representative filed an appeal, and an ALJ allowed the claim in July 2012. This representative provided assistance at the hearing and received a \$6,000 fee.

Representative Assisted Throughout the Claims Process

Of the 379 determinations at the DDS level, 141 had a representative who assisted with the claim throughout the claims process. Some of these representatives had telephone conversations during which they provided DDS staff with requested information, and some provided forms requested by the DDS. In many cases, the claimant would complete the forms and send them to the representative, and the representatives would then submit the forms to the DDS. Of the 141 determinations, 87 were at the initial level, while 54 were reconsiderations. The top four diagnosis codes were back disorders, affective disorders, other and unspecified arthropathies, and anxiety disorders, which were 46 percent of the total cases.

Table 3: Summary of Cases in Which the Representative Assisted Throughout the Claim

	Initial Claims	Reconsiderations
Number of Cases	87	54
Average Processing Time	113 days	113 days
Allowance Rate	38 percent	19 percent
Disability Forms Completed Online	9	30
Attorney	52	34
Non-Attorney	35	20
Fee Agreement on File	67	42
Fee Paid	29	7
Average Fee Paid	\$2,907	\$3,390

For example, a Missouri man filed for DI benefits in February 2010 with an attorney's help. The attorney filed all the paperwork for him and provided all the necessary reports and medical evidence to the DDS. The DDS allowed the claim in July 2010, and the representative received a \$993 fee.

In another example, a Texas man filed for DI benefits and SSI payments. He was represented by a non-attorney who worked for a firm focused on helping healthcare organizations secure

reimbursement for uncompensated medical care expenses by generating benefit approvals. This representative provided medical evidence at both the initial claim and reconsideration levels. Ultimately, though the DDS had the required information, it denied the claim because the DDS found the claimant was still able to work.

Representatives Did Not Always Comply with Requests

In some cases, the representatives may not have followed the *Rules of Conduct and Standards of Responsibility for Representatives*. Some representatives did not assist the claimant in complying with DDS' requests for information or evidence.

For example, an Arizona woman applied for disability benefits in May 2010. The DDS sent a form to her representative in June 2010, asking for information about additional medical sources and her daily activities. In July 2010, the DDS denied her claim because the representative never returned these forms. The representative then filed a reconsideration in July 2010. The DDS sent the representative more forms to complete in September 2010. Again, the DDS denied the claim because the representative never returned the forms. The representative then filed an appeal in October 2010 and provided all requested information. The ALJ allowed her claim in January 2012, and the representative received over \$1,800 in fees.

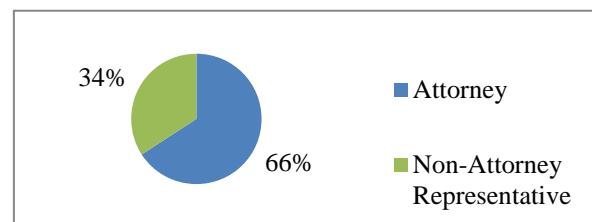
In another example, an Oregon woman applied for disability benefits. Her attorney returned the function report required by the DDS. The claimant completed the form, but the attorney whited out some responses before returning it. For example, she answered a question asking what chores she was able to do, but the attorney whited out the response. In addition, when asked about her hobbies and interests she provided three answers, but one answer was whited out. According to a note in the electronic folder, this attorney had also done this on other claims. This representative was disqualified from being a representative in March 2011.¹⁷

Types of Representatives

Figure 4: Types of Representatives

Of the 275 cases,

- 181 had an attorney representative, and
- 94 had a non-attorney representative.¹⁸



¹⁷ The disqualification was the result of 87 charges, including altering information on applications, presenting false signatures, providing obstructive and incorrect information to claimants, charging fees for work not performed, improper filing and signing of internet applications, failing to provide information, and providing inaccurate information on applications.

¹⁸ In 5 of the 275 cases, the claimant had appointed different representatives for the initial claim and reconsideration.

Attorney Representatives

Of the 275 sample cases, 181 had attorney representatives on 249 determinations at the DDS level. These 249 determinations consisted of 118 at the initial level and 131 at the reconsideration level. Of the 181 attorneys, 178 had fee agreements on file, and 49 received fees averaging \$2,669.

In 83 determinations (33 percent), the attorney representatives completed the disability reports online. Our sample consists of many attorneys, including attorneys working for large national firms such as Binder and Binder and The Disability Group. The top three disabilities were back disorders, affective disorders, and osteoarthritis and allied disorders, which were 69 percent of the total cases.

SSA processed the initial claims handled by these attorneys in an average of 113 days with an allowance rate of 34 percent.¹⁹ In 40 claims (34 percent), the representative did not assist with the claim; in 26 claims (22 percent), the representative assisted with filing the claim; and in 52 claims (44 percent), the representative assisted throughout the claims process.

SSA processed the reconsiderations handled by these attorneys in an average of 82 days with an allowance rate of 14 percent.²⁰ In 23 claims (18 percent), the representative did not assist with the claim; in 76 claims (58 percent), the representative assisted with filing the claim; and in 32 claims (24 percent), the representative assisted throughout the claims process.

Non-Attorney Representatives

Of the 275 sample cases, 94 had a non-attorney representative on 130 determinations at the DDS level. These 130 determinations consisted of 83 at the initial level and 47 at the reconsideration level. Of the 94 non-attorney representatives, 29 were eligible for direct payment from SSA, and 65 were not. SSA had 35 fee agreements on file, and 8 received fees averaging \$2,130.

In 56 determinations (43 percent), the non-attorney representative completed the disability reports online. Our sample consisted of non-attorneys working for various types of entities, including nonprofit companies (such as health care entities and legal aid agencies); for-profit companies (such as eligibility service companies like Chamberlin-Edmonds); and large national firms (such as Allsup and Freedom Disability). Most of the non-attorney representatives were professional representatives (42 percent) or worked for firms that helped hospitals increase revenue (20 percent). See Appendix D for more information on non-attorney representatives. The top three disabilities were back disorders, affective disorders, and fractures of the lower limb, which were 38 percent of the total cases.

¹⁹ According to SSA, the national allowance rate for initial claims in CY 2010 was 35 percent. Additionally, the national processing time for initial claims in FY 2010 was 92 days.

²⁰ According to SSA, the national allowance rate for reconsiderations in CY 2010 was 13 percent. Additionally, the national processing time for reconsiderations in FY 2010 was 87 days.

SSA processed the initial claims handled by these non-attorneys in an average of 94 days with an allowance rate of 39 percent.²¹ In 17 claims (21 percent), the representative did not assist with the claim; in 31 claims (37 percent), the representative assisted with filing the claim; and in 35 claims (42 percent), the representative assisted throughout the claims process.

SSA processed the reconsiderations handled by these non-attorneys in an average of 84 days with a 13-percent allowance rate.²² In 6 claims (13 percent), the representative did not assist with the claim; in 21 claims (45 percent), the representative assisted with the filing of the claim; and in 20 claims (42 percent), the representative assisted throughout the claims process.

Feedback from Stakeholders

We reached out to stakeholders to obtain their thoughts on claimant representatives at the DDS level. Most of the organizations we contacted stated that representatives should have access to the electronic folder during the DDS claims process.²³ One organization stated that access to the file would be most helpful in advocating and processing claims in a timely manner. See Appendix B for more information on stakeholder responses.

CONCLUSIONS

We found some differences between claims with a representative and claims without a representative. The degree to which representatives assist claimants can vary greatly.

AGENCY COMMENTS

SSA reviewed the draft report but did not provide any comments. See Appendix E.

²¹ According to SSA, the national allowance rate for initial claims in CY 2010 was 35 percent. Additionally, the national processing time for initial claims in FY 2010 was 92 days.

²² According to SSA, the national allowance rate for reconsiderations in CY 2010 was 13 percent. Additionally, the national processing time for reconsiderations in FY 2010 was 87 days.

²³ In 2009, SSA initiated a project—the Appointed Representative Suite of Services—that would provide a comprehensive set of electronic services, allowing representatives to conduct most of their SSA business online. At the time of our review, only representatives with appeals pending at the hearing level could obtain access to the electronic folder to monitor their client's cases. This service was not available at the DDS level.

APPENDICES

Appendix A – SCOPE AND METHODOLOGY

To accomplish our objective, we:

- Reviewed applicable sections of the *Social Security Act* and the Social Security Administration's (SSA) regulations, policies, and procedures, as well as other applicable Federal regulations.
- Reviewed the Social Security Advisory Board Report, *Filing for Social Security Disability Benefits: What Impact Does Professional Representation Have on the Process at the Initial Application Level?*, September 2012.
- Obtained a file of 857,855 claimants with a disability determination from the disability determination services in Calendar Year 2010 who also had a representative. We tested the data and concluded they were reliable to meet our audit objective.
- Selected a random sample of 275 cases for detailed review. For each case, we reviewed the electronic folder and SSA's records to determine
 - to what extent the representative assisted with the claim,¹
 - the allowance rates and processing times of the claims, and
 - the fees paid to the representative.
- Contacted the National Association of Disability Examiners, National Council of Social Security Management Associations, National Council of Disability Determination Directors, National Organization of Social Security Claimants' Representatives, and National Association of Disability Representatives.
- Provided SSA 12 cases in which it appeared the claimant representative had not received copies of letters or notices sent to the claimant.

We conducted our review between March and July 2013 in Boston, Massachusetts. The principal entities audited were the Office of Disability Determinations and SSA's field offices and program service centers under the Office of the Deputy Commissioner for 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 our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹ Our review was limited to documents the Agency added to the electronic folder. We looked for documents signed, reviewed, or provided by the representative, such as the disability report, function report, or medical evidence. We also looked for reports of contact and notes of phone conversations.

Appendix B – FEEDBACK FROM STAKEHOLDERS

We reached out to stakeholders to obtain their thoughts on claimant representatives at the disability determination services (DDS) level. Below is a summary of their responses.

- National Association of Disability Examiners (NADE)¹ stated that some representatives assisted in obtaining evidence, allowed the DDS to contact the claimant directly, and assisted in getting information. There are claimants with mental impairments or cognitive deficits in which having a representative is beneficial to adjudication. The majority of NADE member responses indicated that representatives increase processing time for various reasons, such as indicating they will assist with collection of needed evidence or documentation and then fail to produce it in a timely manner or not allowing the DDS to speak with the claimant directly.
- National Council of Social Security Management Associations (NCSSMA)² stated that when representatives provide conscientious service to the claimant and submit fully developed claims in a timely manner, both the claimant and the Agency win. NCSSMA felt that the Agency should improve electronic and automation systems. In May 2013, the group issued a letter to the Social Security Administration's (SSA) Deputy Commissioner for Operations recommending the Agency expand representative's access to electronic folder and automate representative data.
- National Council of Disability Determination Directors (NCDDD)³ stated that while some representatives can be very beneficial to the claims process, others significantly hinder the process in various ways. A representative's delaying of the claim process could reasonably result from an inaccurate understanding of the program. However, intentional delaying for monetary gain is also a possibility. Representatives should have access to the electronic folder during the DDS claims process. Additionally, NCDDD stated representatives should be held accountable for representing their client's best interests, including ensuring timely and thorough collection of pertinent evidence, clarification of unclear or conflicting information, and client attendance at essential appointments. Payment policies should be reassessed for better alignment with high quality service to claimants.

¹ The purpose of NADE is to develop the art and science of disability evaluation, enhance public awareness about disability evaluation, and further professional recognition for disability evaluation practitioners. See <http://nade.org/>.

² NCSSMA is dedicated to improving management and program administration in SSA by assuring the knowledge and experience of front-line management are included in all phases of agency planning and decisionmaking. See <http://ncssma.org/>.

³ NCDDD's mission is to provide the highest possible level of service to persons with disabilities, to promote the interests of the DDS and to represent DDS Directors, their management teams, and staffs. See <http://ncddd.org/>.

- National Organization of Social Security Claimants' Representatives (NOSSCR)⁴ provided the results of a survey issued to its members about representing claimants at the initial and reconsideration levels. A large number of respondents would like online access to their client's files. Many respondents also commented that DDS staff was hard to reach by telephone and better communication with representatives would be valuable. Additionally, NOSSCR respondents felt that the DDS should have a process to more regularly notify the representative if they cannot obtain certain evidence, because sometimes the representatives are able to obtain it.
- National Association of Disability Representatives (NADR)⁵ stated that its members were concerned with the lack of access to their claimants' files. Access to the file would be most helpful in advocating and processing claims in a timely manner. This would alleviate difficulties some representatives have with getting medical records. NADR members find that professional representation will increase the likelihood of an award and in most cases maximize the benefits due to the claimant.

⁴ NOSSCR's purpose is to provide representation for individuals with disabilities, to maintain a system of full and fair review for every claimant and beneficiary, and advocate for improvements in the disability determination and adjudication process. See <http://www.nosscr.org/>.

⁵ NADR's purpose is to serve the existing membership's needs in the area of professional education and political action, and to maintain and enhance members' skills. See <http://www.nadr.org/>.

Appendix C – BREAKOUT OF CLAIMS BY STATE AND CLAIM TYPE

To conduct our review, we identified 857,855 claimants with a disability determination from the disability determination services in Calendar Year 2010 who also had a representative. From this population, we randomly selected 275 cases for detailed analysis. Table C-1 shows the breakout of the 275 cases by the claimant's State of residence.

Table C-1: Sample Cases by State

State	Sample Cases
Alabama	2
Arizona	4
Arkansas	6
California	22
Colorado	5
Connecticut	1
Florida	23
Georgia	13
Idaho	2
Illinois	8
Indiana	12
Iowa	3
Kansas	5
Kentucky	12
Louisiana	1
Maryland	5
Massachusetts	6
Michigan	2
Minnesota	3
Mississippi	4
Missouri	9
Nebraska	1
Nevada	1
New Hampshire	1
New Jersey	6
New Mexico	3
New York	12

State	Sample Cases
North Carolina	13
Ohio	8
Oklahoma	6
Oregon	4
Pennsylvania	11
Puerto Rico	1
Rhode Island	1
South Carolina	4
Tennessee	15
Texas	26
Utah	1
Virginia	5
Washington	4
West Virginia	3
Wisconsin	1
Total	275

Our 275 sample cases had 379 determinations at the DDS level with claimant representation because 104 had a representative at both the initial claim and reconsideration levels. These 379 determinations were for Disability Insurance (DI) claims, Supplemental Security Income (SSI) claims, and both DI and SSI claims (concurrent).

Table C–2: Breakout of Initial Claims by Claim Type

	DI Claims	SSI Claims	Concurrent Claims	Total
Number of Cases	79	37	85	201
Average Processing Times in Days	100	102	111	105
Allowances	33	13	26	72
Denials	46	24	59	129
Allowance Rate	42 percent	35 percent	31 percent	36 percent

Table C–3: Breakout of Reconsiderations by Claim Type

	DI Claims	SSI Claims	Concurrent Claims	Total
Number of Cases	70	27	81	178
Average Processing Times in Days	81	92	81	82
Allowances	9	3	12	24
Denials	61	24	69	154
Allowance Rate	13 percent	11 percent	15 percent	13 percent

Appendix D – NON-ATTORNEY REPRESENTATIVES

Non-attorney Representative Requirements

A claimant may appoint a representative, either an attorney or a non-attorney, to represent him/her in pursuing his/her claim.¹ A non-attorney may serve as a claimant's representative if he/she is

- generally known to have a good character and reputation;
- capable of giving valuable help to the claimant in connection with the claim;
- not disqualified or suspended from acting as a representative in dealings with the Social Security Administration (SSA); and
- not prohibited by any law from acting as a representative.

SSA did not define the terms “good character and reputation” or “valuable help.” The Agency will presume that an appointed or prospective non-attorney representative is of good character and reputation and capable of giving valuable help absent evidence to the contrary.

Generally, a representative who wants to charge or collect a fee for services provided in any proceeding before SSA under the *Social Security Act* must first obtain SSA's authorization.² A non-attorney representative may become eligible for direct payment from SSA. To be eligible for direct payment, a non-attorney representative must

- possess a bachelor's degree or equivalent qualifications;
- pass a written examination administered by SSA;
- secure professional liability insurance or equivalent;
- undergo a criminal background check; and
- complete continuing education courses.³

¹ SSA, POMS, GN 03910.010B (March 14, 1995).

² SSA, POMS, GN 03920.001 (August 31, 2009).

³ *Social Security Act* § 206(e)(2), 42 U.S.C. § 406(e)(2).

Some examples of non-attorney representatives in our sample are

- social workers;
- employees at hospitals and rehabilitation centers; and
- employees of companies that specialize in helping hospitals increase revenue by helping patients obtain Social Security benefits.

Non-Attorney Representatives in Sample Cases

Our 275 sample cases had 379 determinations at the disability determination services level with claimant representation because 104 had a representative at both the initial claim and reconsideration levels. In these 379 determinations, 249 had attorney representatives, and 130 had non-attorney representatives.

As shown in Table D–1, most of the non-attorney representatives were professional representatives or worked for firms that helped hospitals increase revenue. Table D–2 shows the fee arrangements between the non-attorney representatives and the claimants.

Table D–1: Non-Attorney Representatives in Sample Cases

Type of Non-Attorney Representative	Initial Determinations	Reconsideration Determinations	Total	Proportion
Professional Representative	30	24	54	41%
Employee of a Firm Helping Hospitals with Revenue	21	5	26	20%
Professional Representative Working for a Law Firm	8	6	14	11%
Social Worker	6	4	10	8%
State Agency Employee (not in a disability determination services)	5	3	8	6%
Professional Representative Working for a Long-Term Disability Insurance Carrier	4	1	5	4%
Unknown	3	2	5	4%
Professional Representative Working for a State Agency	3	0	3	2%
Legal Aid Society Employee	1	2	3	2%
Homeless Advocate	1	0	1	1%
Relative	1	0	1	1%
Total	83	47	130	100%

Table D–2: Non-Attorney Representatives Fee Agreements in Sample Cases

Type of Non-Attorney Representative	Initial Determinations	Reconsideration Determinations	Total	Proportion
Fee Waived Altogether	41	14	55	42%
Fee Agreement on File	26	22	48	37%
Waived Direct Payment ⁴	15	10	25	19%
No Information on Fee	1	1	2	2%
Total	83	47	130	100%

⁴ In 10 of the 25 determinations in which the non-attorney representative waived direct payment from the claimant, a third party (such as an insurance company) agreed to pay the representative's fee.

Appendix E – AGENCY COMMENTS



SOCIAL SECURITY

MEMORANDUM

Date: January 27, 2014 Refer To: S1J-3

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

From: Katherine Thornton /s/
Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, "Claimant Representatives at the Disability Determination Services Level" (A-01-13-13097) -- INFORMATION

Thank you for the opportunity to review the draft report. We agree with the report as written and offer no comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Gary S. Hatcher at (410) 965-0680.

Attachment

Appendix F – MAJOR CONTRIBUTORS

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