

Administrative Law Judges with Both High Dispositions and High Allowance Rates

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Office of Audit Report Summary

Objective

To address the Committee on Oversight and Government Reform's concerns regarding administrative law judges (ALJ) who had both high dispositions and high allowance rates on their cases.

Background

In a January 2014 letter, the Chairmen of the House Committee on Oversight and Government Reform and the Subcommittee on Energy Policy, Health Care, and Entitlements asked us to identify ALJs who had 700 or more dispositions and allowance rates of 85 percent or higher in any 2 fiscal years (FY) from FYs 2007 through 2013.

After we identified the group of ALJs, the Chairmen asked us to review a sample of these ALJs' allowances to determine whether the ALJs processed the cases according to Social Security Administration (SSA) policy. Finally, the Chairmen asked us to determine how SSA monitors the ALJ outliers and discuss any subsequent actions resulting from this monitoring.

Our Findings

Overall, we found that 44 ALJs (about 4 percent of the ALJs at the Agency) met the outlier criteria. We estimate that 38 of the 275 sample cases related to these 44 ALJs should not have been allowed. We also found the number of ALJ outliers and cases with quality issues had decreased in recent years, at a time when the Agency has increased monitoring and oversight of ALJ workloads.

In our initial examination of the 275 sample cases, we found

- 31 were properly processed,
- 216 had quality issues related to the ALJ decisions, and
- 28 had missing information that prevented us from reviewing the file.

We referred the 216 questionable cases to SSA's Division of Quality (DQ). DQ stated, had these cases been part of its pre-effectuation review, it would have effectuated 88, but for the remaining cases it would have

- reversed 5 of the ALJ allowances,
- issued a less favorable decision on 7,
- issued a more favorable decision on 1,
- remanded 108 back to the ALJ, and
- taken corrective action on 7 without changing the decision.

From this feedback a review of earlier remand outcomes for these ALJs, we estimated that 38 of the 275 sample cases would have been denied or dismissed had they been part of a pre-effectuation review. Extrapolating these results to all the allowances by the 44 outlier ALJs over a 7-year period, we estimate they improperly allowed disability benefits on approximately 24,900 cases, resulting in questionable costs of about \$2 billion. Furthermore, we project that SSA will continue paying these beneficiaries approximately \$273 million over the next 12 months.

Our review of the 275 cases also found that (1) the number of ALJ outliers and percent of cases with quality issues decreased in recent years; (2) the Agency had increased oversight and monitoring of ALJ workloads; and (3) since 2007, SSA had taken at least 1 administrative or disciplinary action on 15 (34 percent) of the 44 outlier ALJs, including training, counseling, suspension, and termination.