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**REPORT OF THE
COMPTROLLER GENERAL
OF THE UNITED STATES**

**Problems And Progress In
Holding Timelier Hearings For
Disability Claimants**

**Social Security Administration
Department of Health, Education, and Welfare
Civil Service Commission**

Individuals who are denied social security disability benefits wait an average of 8 months to obtain an appeals hearing and a decision on their claims. Delays are caused by the large backlog of hearing requests, problems arising from the nature of the hearing process itself, and shortcomings in obtaining and using hearing staff. The Social Security Administration is attempting to reduce the hearing workload by increasing its staff and productivity.

HRD-76-173

OCT. 1, 1976



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-164031(4)

The Honorable Charles A. Mosher
The Honorable Ken Hechler
House of Representatives

The Social Security Administration takes an average of 8 months to provide an appeals hearing for an individual who has been denied social security disability benefits and render a decision on his or her claim. The major problem is the large backlog of cases awaiting hearing. Other delays are caused by the nature and administration of the hearing process and difficulties in obtaining and utilizing staff.

This review was made pursuant to the your requests of February 11 and February 20, 1975. To meet your reporting deadline, and as you directed, comments from the Department of Health, Education, and Welfare and the Civil Service Commission were not obtained.

This report contains recommendations on pages 31 and 32 to the Secretary of Health, Education, and Welfare and the Chairman, Civil Service Commission. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We will be in touch with your offices in the near future to arrange for release of the report so that the requirements of section 236 can be set in motion.

R. G. Kistler
ACTING Comptroller General
of the United States

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ABBREVIATIONS

ALJ	administrative law judge
APA	Administrative Procedures Act
CSC	Civil Service Commission
GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
SSA	Social Security Administration
SSI	Supplemental Security Income

COMPTROLLER GENERAL'S
REPORT TO THE HONORABLE
CHARLES A. MOSHER AND
THE HONORABLE KEN HECHLER
HOUSE OF REPRESENTATIVES

PROBLEMS AND PROGRESS IN
HOLDING TIMELIER HEARINGS
FOR DISABILITY CLAIMANTS
Social Security Administration
Department of Health, Education,
and Welfare
Civil Service Commission

D I G E S T

Individuals whose claims for social security disability benefits are denied often wait many months before being provided a hearing on their appealed claims. The entire disability process takes approximately 17 months. The hearing part of the process--from the time a claimant requests a hearing until a decision is rendered--takes an average of 8 months. (See p. 8.) The major obstacle to more timely hearings is the declining, but still large, backlog of hearing requests, which numbered 89,769 as of June 1976. (See p. 4.)

Because of this backlog, hearing requests cannot be acted on for several months. While the claimant is waiting, his disability may worsen or additional evidence may become available, requiring updating of cases and causing further delays. Such backlog problems and resultant delays will increase if pending legislation requiring the Social Security Administration to rehear 70,000 previously adjudicated black lung cases is enacted. (See pp. 8 and 9.)

Other factors may encourage unnecessary appeals, adding to the backlog. State agencies do not explain to claimants why their claims are denied. Further, there are inconsistencies between State agencies and administrative law judges in applying criteria for determining disability. (See p. 10.)

Hearing delays occur throughout the hearing process and stem from the following:

--Excessive time--up to 9 weeks in many cases--to forward claimants' files. This

situation appears to be improving as a result of revised Social Security Administration procedures. (See p. 14.)

- Cases held on hearing office master dock, for an average of 3 months before being assigned to administrative law judges. (See p. 14.)
- Cases processed through regional development centers before being forwarded to administrative law judges for hearings. The average 2-month delay appears unnecessary since administrative law judges or their staffs often disregard or redo the development center's work. (See p. 16.)
- The necessity, in some areas of the country, of administrative law judges traveling to hear cases and the consequent need to accumulate a sufficient number of cases to make a trip worthwhile. (See p. 17.)
- Lack of criteria regarding transfer of cases from heavily backlogged offices to lower-backlogged offices. (See p. 18.)
- The need to redevelop cases because a claimant's condition may have worsened, the State agency's case development was inadequate, or the claimant submitted information which changed the circumstances of the case. (See p. 18.)
- Slowness on the part of hospitals and physicians--an average of more than 5 weeks--in responding to requests for a claimant's medical records. (See p. 19.)
- Delays averaging 10 weeks to obtain results of consultative examinations because of shortages of specialists, need for multiple examinations, and failure of claimants to appear for scheduled examinations. (See p. 19.)
- Delays averaging 2 months because claimants request postponement of hearing or decisions or fail to appear for hearings. (See p. 19.)

Staffing problems also have contributed to hearing delays. In some cases, claimants must wait for hearings because of difficulty in hiring administrative law judges. Problems could occur if the Social Security Administration does not inform the Civil Service Commission, which recruits administrative law judges, of areas where it is difficult to hire judges.

The Civil Service Commission should make special efforts to provide the Social Security Administration with sufficient numbers of suitable applicants for these areas. (See p. 20.)

Hearing personnel are not used as efficiently and effectively as possible. Position descriptions overlap, resulting in duplication of effort and in work being done by higher-level personnel than necessary. (See p. 22.)

The Social Security Administration made no cost-benefit studies to support the number of hearing personnel added during fiscal year 1976. (See p. 25.)

The Social Security Administration is attempting to reduce the backlog by

- increasing administrative law judge productivity by urging additional effort and providing additional staff and improved equipment (see p. 24);
- experimenting with model hearing offices in which new positions have been established, personnel responsibilities shifted, and case processing streamlined (see p. 26);
and
- reducing the hearing workload by remanding potentially awardable cases to State agencies for review and personally contacting the claimant upon reconsideration of his claim to explain the basis for the denial of benefits (see p. 27).

GAO believes that there is no quick and simple solution to hearing delays and that only time and improved case processing techniques will

enable Social Security to speed the hearing process. (See p. 30.)

GAO recommends that the Secretary, Department of Health, Education, and Welfare, direct the Commissioner, Social Security Administration, to:

- assure that State agencies have procedures for informing claimants of specific reasons for denial of their claims;
- assure that the same disability criteria are applied by State agencies and administrative law judges;
- identify specific problems causing delays in forwarding claims files to hearing offices and seek solutions to these problems;
- wherever possible, assign cases immediately to administrative law judges instead of keeping them on master dockets;
- either eliminate development centers or establish clearly defined objectives aimed at (1) avoiding the duplication which currently exists and (2) closely tying development center functions to the needs of administrative law judges;
- review and revise policies on administrative law judge travel and transfer of cases to minimize hearing delays;
- officially notify the Civil Service Commission of its need for administrative law judges in specific problem locations in future hirings;
- clearly define job descriptions of various hearing personnel to differentiate their responsibilities and eliminate duplicative tasks;
- establish stricter criteria for Social Security district offices to follow in informally remanding cases to State agencies; and
- insure that studies of the beneficial value, necessary controls, alternatives, and evaluative standards for experimental programs are

determined before implementation on a large scale.

GAO also recommends that the Chairman, Civil Service Commission, take steps to: (1) determine from the Social Security Administration the areas for which it is unable to obtain sufficient numbers of administrative law judges and (2) make special efforts to obtain administrative law judges for these problem locations. (See pp. 31 and 32.)

To meet the congressional requestors' reporting deadline, comments from the Department of Health, Education, and Welfare and the Civil Service Commission were not obtained.

CHAPTER 1

INTRODUCTION

Individuals whose claims for social security benefits are denied often wait many months before being provided a hearing on their appealed claims. Concerned about these delays, Congressmen Charles A. Mosher and Ken Hechler asked us to examine why the Social Security Administration (SSA) could not provide timely hearings for claimants.

SSA employs administrative law judges (ALJs) to hold hearings and decide appealed cases. The judges may hear cases relating to applicants' claims for Old Age and Survivors, Disability, or Medicare insurance benefits, or for benefits under the Supplemental Security Income (SSI) or Black Lung programs. During 1975 and the first half of 1976, disability cases accounted for 94 percent of all hearing requests. Therefore, our review concentrated on claims for disability benefits under the Disability Insurance and SSI programs.

DISABILITY CLAIMS PROCESS

Title II of the Social Security Act (42 U.S.C. 401, et seq.) provides benefits for disabled individuals who contributed to the social security fund for minimum stipulated periods. Title XVI (42 U.S.C. 1381, et seq.), known as the SSI program, provides benefits for disabled individuals whose income and resources are below a certain level. Benefits may be claimed under both titles (concurrent claims). An individual is considered disabled if he is unable to work because of a physical or mental impairment which can be expected to last at least 12 months or to result in death. The individual's age, education, and work experience are also considered.

The programs are administered by SSA, Department of Health, Education, and Welfare (HEW). SSA's Bureau of Disability Insurance has administrative responsibility for these programs.

As of April 1976, 4.5 million persons were receiving an average of \$157 per month in disability benefits under title II. As of the same date, 2 million persons were receiving disability benefits under the SSI program, and benefits averaged \$141 per month.

A claimant files for disability benefits at an SSA district office. The district office is responsible for determining whether the applicant meets the nonmedical requirements for eligibility. This requires checking whether the applicant has contributed to the social security fund for the minimum stipulated period to be covered by the disability insurance program or whether the applicant has more income and resources than allowed by law to receive benefits under the SSI program.

Medical determinations of disability are made by the State vocational rehabilitation agency or some other agency selected by the State to do this where the applicant resides. The district office forwards the medical portion of the application to the State agency. The relationship between SSA and the State agencies is contractual; in making disability determinations, State agencies use SSA standards and guides, and the costs of making the initial and reconsideration determinations are funded by Federal moneys. If the initial determination of the claim is a denial, the claimant may file for a reconsideration of the claim by different personnel in the same State agency. If again denied, the claimant has 60 days to request an SSA hearing. Claims denied after an SSA hearing or dismissed due to a jurisdictional problem may be appealed first to SSA's Appeals Council and finally to the Federal courts. This process is illustrated in the chart on page 3.

The vast majority of claims are resolved during the first two stages of the claims process. The following schedule illustrates this by showing the number of disability decisions made at various stages in the claims process during 1975.

	<u>Number of decisions</u>
Initial determinations	2,292,000
Reconsideration determinations	388,000
SSA hearings and dismissals	127,000

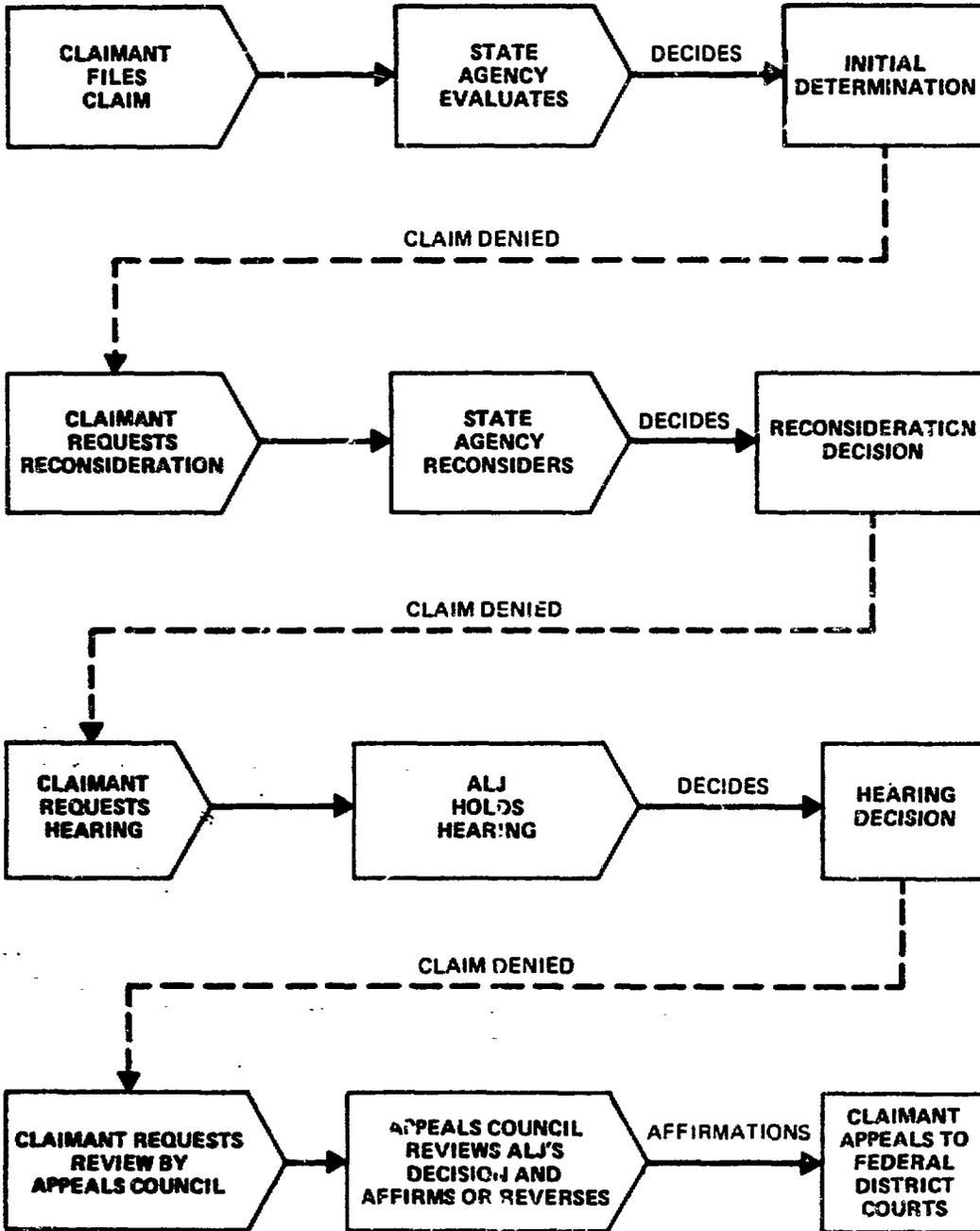
Of those that do reach the hearing level, about half are decided in favor of the claimant.

DISABILITY HEARINGS

SSA's Bureau of Hearings and Appeals is responsible for holding disability hearings. As of January 2, 1976, the bureau had 4,100 employees. In addition to its headquarters,



THE CLAIM PROCESS



the bureau operates 10 regional offices, 10 regional development centers, and 154 hearing offices. The cost of operations in fiscal year 1975 was \$75.7 million.

The following chart shows SSA's hearing workload, productivity, and backlog for fiscal years 1971 through 1975.

	Fiscal year				
	1971	1972	1973 (note a)	1974	1975
Hearing requests	52,427	103,691	72,202	121,504	154,962
Dispositions	45,301	61,030	68,356	80,783	121,026
Cases pending (end of year backlog)	20,873	63,534	36,780	77,233	111,169
Number of presiding officers (note b)	295	392	462	503	613
Backlog per presiding officer	71	162	80	154	181
Annual average production for an experienced presiding officer	162	180	188	193	227

a/During 1973, 30,600 black lung cases were remanded for decision at a lower level because of a change in the criteria for eligibility.

b/Presiding officers include title II and black lung ALJs and, in 1975, hearing examiners who heard SSI cases only. Currently, all presiding officers are referred to as ALJs.

As of June 1976, 89,769 cases were awaiting hearings. This is a substantial reduction of the backlog from an April 1975 peak of about 113,000.

The hearing portion of the disability claims process begins when a claimant requests a hearing and the SSA district office forwards his file to the appropriate hearing office. The case is then assigned to an ALJ, who obtains necessary evidence and holds the hearing. The hearing is usually a claimant's first face-to-face meeting with someone who is adjudicating his claim; until then all decisions on a claim are based solely on the claimant's case file. At the hearing, which is confidential, the claimant testifies regarding his disability. Also, either the ALJ or the claimant or both may call upon vocational experts and physicians to testify concerning the claimant's work abilities and impairments. After the hearing, the ALJ may obtain any additional evidence

which the hearing revealed as necessary to make a complete and fair decision. The hearing process ends when the ALJ renders and writes a decision.

ALJS AND THE ADMINISTRATIVE PROCEDURES ACT

The ALJs who hold the hearings are appointed under the Administrative Procedures Act of 1946 (APA), Public Law 79-404, as amended, 5 U.S.C. 551, et seq., 3105 and 7521. The APA resulted from a lengthy examination of various Federal agencies and their exercise of quasi-legislative (rulemaking) and quasi-judicial (adjudicative) powers. With regard to ALJs and the hearings which they hold, the APA sought to (1) provide basic procedural guarantees of due process and (2) avoid the influence which an agency can have over ALJs whom it hires, rates, removes, and for whom it sets salaries. These four functions were placed under the control of the Civil Service Commission (CSC).

There have been many studies and much discussion concerned with whether SSA's ALJs should be under the provisions of the APA. 1/ Some commentators have pointed out that SSA hearings are nonadversary by design, usually involving certain fixed and repetitive issues which are less complex than those dealt with in the regulatory agencies, and ALJs should therefore not be required to be under the APA. Presumably, if SSA's ALJs were not under the APA, SSA would be allowed to independently appoint hearing examiners and have more flexibility in such matters as hiring, grading, evaluating, assigning, and removing.

The APA describes the type of hearing to which it applies, not the specific agencies. 2/ CSC was left with the

1/For example, see Report of the Disability Claims Process Task Force (SSA pub. 1975); Yourman, Report on Social Security Beneficiary Hearings, Appeals and Judicial Review (SSA pub. 1975); Iixon, Social Security Disability and Mass Justice (1973); Committee Staff Report on the Disability Insurance Program, Committee on Ways and Means, U.S. House of Representatives (1974); see also, Delays in Social Security Appeals, Hearings Before the Subcommittee on Social Security of the Committee on Ways and Means, House of Representatives, 94th Cong., 1st Sess. (1975).

2/See 5 U.S.C. 554.

task of deciding which agencies must comply with the APA's provisions and decided shortly after the act's passage that SSA hearings should be under its provisions. This was done mainly to avoid having to rehear cases that the courts might later determine should have been heard under the APA provisions.

In view of the above, it is interesting to note, however, that the APA states:

"This subchapter does not supersede the conduct of specified classes of proceedings, in whole or in part, by or before boards or other employees specially provided for by or designated under statute."
(5 U.S.C. 556(b).)

The Social Security Act predates the APA and specifically provides a framework of administrative adjudication of benefit claims. Consequently, it has been argued that the above quotation excepts SSA from the restriction of the APA. However, the Report of the Attorney General's Committee on Administrative Procedure (see Senate Doc. No. 8, 77th Cong., 1st Sess. (1941)), which strongly influenced the form of the APA when it was passed, used the Social Security Act appeals procedures as a model for its recommendations on administrative adjudications. In the 1971 case of *Richardson vs. Perales* (402 U.S. 389) the Supreme Court responded as follows when presented with this issue:

"We need not decide whether the APA has general application to social security disability claims, for the social security administrative procedure does not vary from that prescribed by the APA. Indeed, the latter is modeled upon the Social Security Act." (402 U.S. at 409.)

Thus, because the same procedural requirements of due process apply under the APA and the Social Security Act, the claimant can receive an equitable hearing under either.

SSA is apparently moving away from its longstanding non-interference role in dealing with ALJs. For example, productivity goals have been set and supervisory, peer review, and counseling systems have been established. While we did not consider all of the personnel management aspects of ALJs being under either the APA or the Social Security Act, we believe that SSA's change of position in dealing with the ALJs, as presently contemplated, does not violate the APA. Therefore, our efforts were directed toward developing recommendations to improve SSA's present adjudicatory system.

SCOPE OF REVIEW

We examined (1) the problems impeding timelier hearings on disability claims and (2) SSA's efforts to resolve these problems.

We reviewed appropriate laws and regulations governing disability benefits, examined applicable records and procedures, and interviewed responsible representatives at SSA headquarters. We interviewed officials at SSA's regional offices in Atlanta, Chicago, Dallas, New York, and Seattle; and at hearing offices in Cleveland, Dallas, New York, and Seattle. We met with representatives of CSC and State agencies who make disability determinations in New York, Ohio, Texas, and Washington. We took a sample of 200 claims on which hearings had been held and decisions rendered from SSA's Cleveland, Dallas, New York, and Seattle hearing offices. Fifty sample claims were chosen at each hearing office visited. We visited the Dallas hearing office in December 1975 and the Cleveland, New York, and Seattle hearing offices in January 1976.

CHAPTER 2

PROBLEMS IMPEDING TIMELIER HEARINGS

The importance of prompt hearings cannot be overemphasized. Because of their disabilities, most claimants are temporarily--possibly permanently--unemployed and therefore in many instances unable to support themselves. The hearing process includes lengthy delays, aggravated by the fact that such delays occur after claimants have already experienced lengthy delays at previous stages of the claim process. Based on a sample of claims, we found that the entire disability claim process, from initial claim to hearing decision, averaged 17 months. The hearing segment of this process--from the claimant's request of a hearing to the rendering of a decision--averaged 8 months.

Delays in holding hearings are caused by

--the backlog of cases with hearings pending,

--the manner in which SSA implements the hearing process, and

--difficulties in obtaining and utilizing staff.

BACKLOG PROBLEMS

The backlog of cases has resulted mainly from increasing numbers of hearing requests. During fiscal year 1971, SSA received 52,427 requests for hearings; by fiscal year 1975, this number was 154,962. While ALJ production has increased during this period from an average yearly production of 162 cases to 227 cases per ALJ, this has not prevented a large number of cases from being left pending at the end of each year. Consequently, from fiscal year 1971 through 1975, the pending case backlog grew from 20,873 to 111,169. (See page 4.)

A major contribution to the backlog was the additional responsibility given to SSA for the Black Lung program. This program, authorized under the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801, et seq.), provided for the payment of monthly cash benefits to coal miners who are totally disabled because of black lung resulting from employment in coal mines and survivors of deceased coal miners who are entitled to such benefits. Claims for these benefits which were denied at lower levels resulted in approximately 78,000 requests for hearings.

Amendments to the act in 1972 (30 U.S.C. 901) compounded the problem by requiring reexamination of cases denied under the original legislation. Temporary ALJs were employed in fiscal year 1972 to hear some of these cases; however, many were heard by the already existing corps of ALJs, shortening the time these ALJs could spend hearing cases in their regular workload and causing backlogs.

As of January 1, 1974, responsibility for all future requests for black lung hearings was transferred to the Department of Labor (Public Law 92-303). SSA is expected to complete all black lung cases under its jurisdiction by about September 1976. However, pending legislation (H.R. 10760) to amend eligibility requirements would require SSA to redetermine black lung cases previously denied--estimated by an SSA official to number approximately 70,000.

Another major contribution to the backlog was the additional responsibility SSA incurred for the SSI program in 1974. The SSI legislation provided that qualified persons could be appointed as hearing examiners to conduct only SSI hearings without meeting the specific standards of the APA under which ALJs are appointed (Public Law 94-202). To deal with the SSI-appealed cases, SSA employed 122 individuals to be hearing examiners under this SSI provision.

The first request for a hearing on an SSI claim was received in March 1974. As of May 1976, the backlog had grown to 33,834 cases. Of this number, 20,095 were concurrent; that is, they involved a title II claim in addition to the SSI claim. SSA had originally estimated that approximately 11 percent of SSI claims would be concurrent. The actual proportion, however, has averaged 50 percent.

The large number of concurrent cases affected the backlog of SSI cases in two ways. First, the SSI hearing examiners did not have the authority to hear the title II part of the concurrent claim, whereas the ALJs had authority to hear both the title II and the SSI parts. SSA recognized the inefficiency of splitting the claim and holding two hearings; thus, the concurrent cases became an unanticipated additional burden for the ALJs. Second, because so many of the SSI claims were concurrent, the SSI workload was unexpectedly light for the hearing examiners in some locations.

A January 1976 amendment to the Social Security Act (Public Law 94-202) converted the hearing examiners to temporary ALJs and permitted the Secretary, HEW, to authorize them to hear all types of claims. On March 3, 1976, the

Secretary assigned the hearing examiners responsibility for concurrent and certain title II cases. This should lessen the burden of the regular ALJs in locations where the SSI workload is light and give temporary ALJs time to hear the newly assigned cases. It will have little effect, however, in other locations.

Effect of the backlog

A reasonable backlog is necessary to provide efficient management of an ALJ's caseload and continuity in his or her work. For example, while decisions are being prepared on some cases, others are awaiting hearings (the claimant must be notified at least 10 days in advance of the scheduled hearing date), and still others are awaiting additional evidence. Several ALJs told us that an ALJ averaging 30 decisions a month needs a backlog of approximately 100 cases to be efficiently employed.

Too large a backlog, however, impedes timelier hearings because new cases must be put aside for lengthy periods while action is taken on earlier arrivals. Many ALJs told us they could render decisions in approximately 30 days instead of 8 months if they had no cases pending and did not need to update evidence.

Too large a backlog also causes other delays throughout the hearing process. For example, cases initially delayed by the backlog often need to be updated when eventually reviewed because the claimant's condition has changed. Additional evidence regarding the claimant's condition must then be obtained, causing further delay.

The dispersion of the backlog also adversely affects prompt hearings. The backlog varies among hearing offices, and thus works inequities on claimants in different parts of the Nation. As of January 1975, the nationwide backlog per ALJ was 155. However, the average backlog per ALJ in the hearing offices we visited ranged from 73 to 268. A claimant in a low-backlogged area obviously has a much better chance of receiving a hearing earlier than a claimant in a high-backlogged area.

Factors contributing to increased appeals

Certain factors may contribute to more claims that necessary being appealed to SSA, consequently increasing the backlog. One of these factors is that State agencies

generally do not inform the claimant of the specific reason for which he or she was denied benefits; instead claimants generally receive form-letter denials of their claims. Denials for medical reasons contain a general explanation of disability criteria but not the specific medical reason for the denial.

In title II cases, the claimant is responsible for proving his claim. This may be difficult since the letters do not give specific reasons for denial. While we made no attempt to determine the number of claims appealed because a claimant did not understand why he was denied benefits, it seems reasonable that the use of form letters and the absence of specific, detailed reasons for denials encourage appeals. SSA has experimented with personal interviews at the time the applicant requests a reconsideration of his claim. This should help to correct the situation. (See p. 28.)

Another factor contributing to increased appeals is the criteria used for determining disability. Many ALJs and State agency officials with whom we met were of the opinion that ALJs and the State agencies applied different criteria in determining disability. They indicated that State agencies are bound by policies contained in their manuals while ALJs are bound by the law and regulations. ALJs must also be mindful of decisions rendered by Federal courts on disability cases. For example, the emphasis given by the courts to certain vocational factors such as age, education, and work experience may be different from that given in the States' manual.

The ALJs cited differences in application of criteria relating to

- interpretation of the extent to which psychiatric problems can be recognized as disabling;
- the need for consideration of the claim by vocational experts and the weight to be given these vocational considerations;
- the consideration of whether a claimant could be expected to work at other than his customary employment; and
- the weight to be given certain types of evidence admissible for SSA but not admissible in the courts.

Additionally, some differences exist between ALJs and State agencies due to the ALJ's personal contact with the claimant. This enables an ALJ to more fully consider the effect of such factors as pain and suffering on the claimant's ability to work.

Two studies done for SSA have also shown that ALJs and State agencies seem to be applying different criteria in their determinations. 1/ One of these studies, conducted by an SSA task force, indicated that there was a wide difference between State agency and ALJ evaluations and conclusions on the same facts. The other study, conducted by an SSA consultant, indicated that there were difficulties in applying the statutory definition of disability to borderline cases.

Interpretations of disability criteria also vary among ALJs. This is evidenced by the wide range of ALJ reversal rates--the rates at which ALJs reverse the decisions made at lower levels in the cases which come before them for hearing. Although it is understandable that ALJs' reversal rates may vary from State to State, ALJs within the same hearing offices often have varying rates. For example, the ranges of ALJ reversal rates in 1975 in the hearing offices we visited were as follows:

<u>Hearing office</u>	<u>Individual ALJ reversal rates expressed as a percent of cases they review</u>	
	<u>Lowest</u>	<u>Highest</u>
Cleveland	33	87
Dallas	35	55
New York City (Manhattan)	30	60
Seattle	41	73

In February 1976, an agency official stated that SSA was considering amending its regulations concerning the application of vocational and educational factors by the ALJs in making disability determinations. It was also studying the criteria for different types of disabilities to determine where revisions are needed. As long as different criteria are applied, there is the possibility of claims reaching the hearing level which might have been awarded at a lower level had the criteria been the same.

1/Report of the Disability Claims Process Task Force (SSA pub. 1975); Yourman, Report on Social Security Beneficiary Hearings, Appeals and Judicial Review (SSA pub. 1975).



PROBLEMS IN THE HEARING PROCESS

SSA's goal, to be attained by July 1977, is to issue a hearing decision within 90 days of the claimant's request for a hearing. We took a sample of 200 cases from four hearing offices (see page 7) to identify processing delays and compare SSA's processing time with its goal. As the chart on page 15 shows, cases in our sample for which processing was completed indicate that the hearing process averaged 248 days. Obviously, a number of problems will have to be overcome if SSA is to attain the 90-day goal. The problem areas revealed by examination of our case sample were

- delays due to SSA hearing offices failing to promptly receive the claimant's file;
- delays due to cases not being assigned promptly to the ALJs;
- delays incurred by the routing of SSI cases through development centers;
- delays caused by the scheduling and holding of hearings, including the travel of ALJs to hold hearings, the development of cases at the hearing level, and whether the claimant shows for the hearing when scheduled.

In addition to the above factors, which are discussed below in detail, the hearing process involves many people, activities, evidence requirements, and other factors such as

- the completeness of the claimant's file,
- the currency and adequacy of evidence supporting the claimant's case,
- the complexity of the issues,
- the ALJ's personal work habits, such as the extent to which he or she utilizes his or her staff,
- the ALJ's judgment as to the amount of evidence needed to make a fair decision, and
- the need to employ the services of outside parties and the promptness with which they respond.

The result is a relatively complex system, vulnerable to delay problems at numerous points.

Forwarding claim files

When a claimant requests a hearing, the SSA district office must forward his case file to a hearing office or a center established for the development of SSI cases. SSA considers 21 days to be a reasonable forwarding time.

The chart on the following page shows that the average forwarding time for cases we sampled was 26 days. Approximately one-third of the cases in our sample exceeded the 21-day target, averaging about 62 days. Forwarding time for the remaining two-thirds of the cases in our sample averaged only 8 days.

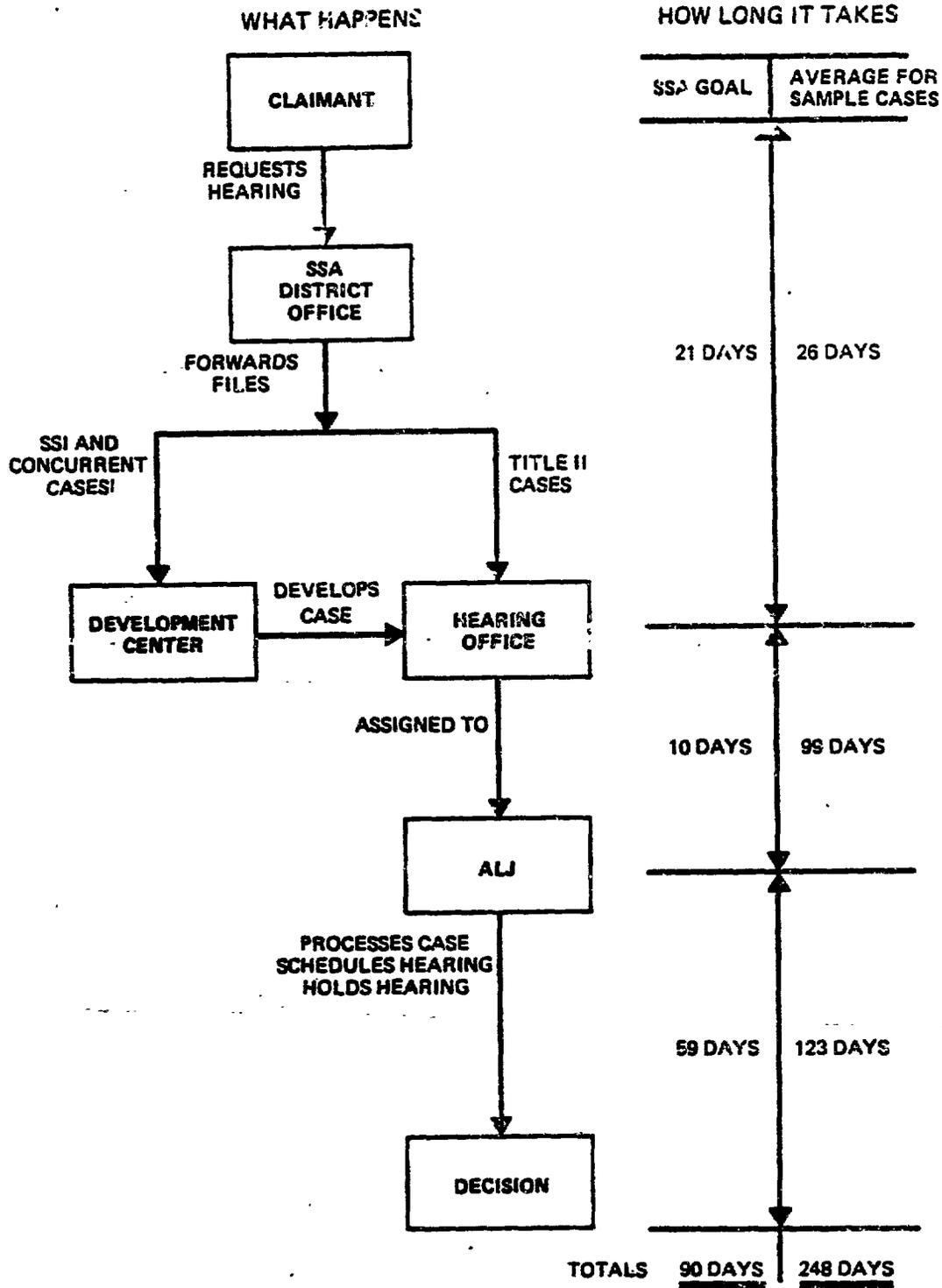
An explanation for the wide range in forwarding times in our sample may be a recent change in case forwarding procedures. Before the change, all title II claim files were sent after reconsideration to the Bureau of Disability Insurance in Baltimore, Maryland, and forwarded from there to the hearing offices. Under this procedure, a 1975 SSA study indicated that there were as many as 78 possible routings for most SSA claims. As a result, as many as 400,000 files could be expected to be absent from the files at any one time. These many routings and claims not in files made locating a claimant's file for forwarding to an SSA hearing office difficult. As of January 1975, however, most files are maintained at SSA's district offices after reconsideration until the 60-day time limit to appeal for a hearing has passed. There, problems of locating the file for forwarding to a nearby hearing office are minimized.

Over 80 percent of the 200 cases we sampled followed the change in forwarding procedures. This accounts, we believe, for the difference--8 days versus 62 days--in average forwarding times between the two groups of cases in our sample. In view of this apparent improvement, SSA's goal of 21 days for forwarding files seems overly conservative.

Assigning cases to ALJs

SSA's goal is to assign cases to ALJs within 10 days of receipt from SSA district offices. The average assignment time for cases we sampled, as shown in the chart on the following page, was 99 days. Assignment time depends in most cases on the procedures followed in individual hearing offices. Generally, a hearing office with a large backlog holds a case on a master docket longer than an office with a small backlog. The assumption is that it matters little whether a case waits on a docket or on the ALJ's desk.

THE HEARING PROCESS



While a case is on a master docket, however, there is little possibility that any action will be taken on it. If instead the case is assigned to an ALJ, he may, even granting his backlog, find the time and/or staff to begin preparing the case for hearing. SSA has recognized this and, as discussed on page 26, is experimenting with assigning case immediately to ALJs in selected hearing offices

Development centers

The hearing process for SSI and concurrent cases differs slightly from the process for title II cases. The former are processed through regional SSA development centers before being forwarded to hearing offices and assigned to ALJs. Although the function of development centers is to conserve ALJs' time, they may delay cases needlessly because the work they do is often unused and/or duplicated by the ALJs' staff. In our sample, 42 percent of the cases went through development centers. On the average, it took each case 53 days.

Development center functions vary from region to region and may include assembling files, reviewing cases to identify those which could be immediately adjudicated or dismissed, obtaining evidence and preparing exhibits, summarizing facts and citing laws and regulations, and performing other duties which the regional chief ALJ may assign.

Many ALJs believe that the work done by development centers does not justify the time it takes. This results to some extent because ALJs have individual work habits and techniques, while development centers prepare all cases uniformly. For example, development centers we visited prepared lists of exhibits to be used in deciding the claim in accordance with SSA's manual. Some ALJs, however, have individual methods of preparing exhibit lists, and since they are not bound by SSA's procedures they may require their hearing assistants to redo this work. In other instances, ALJs may differ with development center analysts on the nature and extent of redevelopment needed.

Some ALJs do not obtain additional evidence before the hearing, preferring to wait until afterward because facts may be brought out which would warrant a reversal of the State agency's decision. Any case assigned to such an ALJ would be unnecessarily delayed if it were detained by the development center awaiting evidence. We found instances in which the development center held cases for more than 2 months awaiting evidence which the ALJ stated he would not have requested.

Another type of delay occurs when the development center obtains evidence and later the ALJ requests additional evidence. If the case had been assigned directly to the ALJ, all evidence could have been requested simultaneously. A 1975 SSA study of development center operations showed that in one development center this type of delay occurred in 18 percent of the cases examined.

More than one-third of our sample cases which went through development centers showed that the development center only summarized the facts, prepared exhibit lists, and assembled and forwarded the file to the hearing office. This took an average of 45 days. Although they read the summaries, ALJs we spoke to generally did not use the information contained in them.

In view of the lengthy and possibly unnecessary delays caused by development centers, it is unrealistic for SSA to expect cases going through development centers to be assigned to ALJs within 10 days.

Scheduling and holding hearings

SSA's goal is to schedule and hold a hearing and issue a decision within 59 days from the assignment of a case to an ALJ (except when the claimant causes delays or SSA requires a consultative examination from an independent physician). The chart on page 15 shows that in our sample, SSA took an average of 123 days to accomplish these activities. Only one-fourth of the cases sampled met SSA's goal of 59 days. Factors which delay the scheduling and holding of hearings follow.

ALJs' travel

Hearings are usually held within 75 miles of a claimant's home. Consequently, in many areas of the country, ALJs must travel to hold hearings. The travel reduces the time available for hearings and may cause delays for claimants. Within hearing offices, an attempt is made to assign cases in a particular area to one ALJ so that he or she will have enough cases to make a hearing trip worthwhile.

Delays due to travel occur in some areas because requests for hearings are infrequent. It may take months to accumulate enough cases for an ALJ's trip. While we could not associate a particular delay with the need to group cases for a hearing trip, several ALJs who travel told us that such groupings definitely contribute to delays for individual claimants.

An additional travel problem occurs when ALJs in low-backlogged offices are assigned to hold hearings in heavily backlogged offices. Cases may remain unassigned in the heavily backlogged office for a number of months prior to their transfer. Twenty-six percent of the cases we sampled had been transferred from a heavily backlogged office. These cases were delayed an average of 95 days prior to their transfer.

SSA has no formal written criteria concerning the intraregional transfer of cases. Such transfers are the responsibility of the regional chief ALJ. None of the regional chief ALJs with whom we met had a policy on the backlog level at which cases should be intraregionally transferred into or out of a hearing office.

SSA authorizes interregion transfers when there is an "excessive" backlog in a hearing office and (1) other offices within the region cannot render assistance because of their own backlog or (2) assistance could be provided more economically by a hearing office in another region because it is closer. However, this is only an operational policy, and there are no formal written criteria.

As of January 1976, SSA was attempting to formulate a policy on interregional and intraregional transfer of cases. Officials stated that they were attempting to determine what amount of backlog warranted transferring cases into or out of a hearing office.

Case redevelopment

Although ALJs are not required to obtain new evidence on claims, consideration of new evidence is the rule rather than the exception in disability hearings. Redevelopment at the hearing level by the ALJ--usually consisting of obtaining existing medical records or an independent physician's consultative examination of the claimant--accounted for more than one-third of the cases we reviewed.

Redevelopment may be occasioned by several factors. Often a claimant's record must be updated because his condition has worsened while awaiting a hearing. Sometimes, the ALJ may consider the State agency's development to be inadequate. Some State agency representatives told us that they generally obtain only that evidence which appears important to a claim. They do not obtain all evidence listed by the claimant because it is expensive and time-consuming and, since such a small percentage of claims are appealed, it is not worthwhile to obtain every medical report in anticipation of an ALJ's

needs. In some cases, redevelopment is necessitated by the claimant's changing the disability he originally alleged or submitting additional evidence.

ALJs redevelop cases differently. Some obtain all evidence prior to the hearing; others request evidence but do not delay the hearing awaiting its receipt; still others postpone requesting any evidence until after the hearing because additional evidence which makes the claim awardable may be produced at the hearing. Requests for medical evidence are usually made through the State agency, although some medical evidence may be requested directly from the source. Delays usually result regardless of the procedure used.

In our sample, the average time to redevelop a case amounted to 38 days. SSA and State agency representatives indicated that most of the delay in obtaining medical records was due to hospitals and physicians not responding to requests in a timely manner. A July 1975 study by the New York development center showed that in most SSI and concurrent cases it took more than 40 days to obtain medical reports from physicians and hospitals.

In cases we sampled which involved consultative examinations, an average of 71 days elapsed to request the examinations, complete them, and receive the results. The promptness with which examinations are completed, SSA recognizes, is largely within the control of the claimant and physician. Accordingly, SSA excludes such cases--13 percent of our sample--from its 90-day processing goal.

Delays in obtaining consultative examinations arise from several factors. State agency representatives indicated that shortages of medical specialists in some locations impede prompt examinations. The type of examination or medical test itself can also delay the process. For example, a consulting physician may require a claimant in a psychiatric case to visit him as many as three times to insure that a genuine mental disability exists. Sometimes, claimants themselves may delay the process by not appearing for a scheduled examination.

Claimant delays

SSA excludes cases which involve claimant delays from its 90-day processing goal. These largely uncontrollable delays, however, affect the length of the hearing process as well as the cost.

Of the cases we sampled, 18 percent involved claimant delays averaging 61 days. Reasons for delays included

- requests for postponement of the hearing,
- failure of the claimant to appear for a scheduled consultative examination,
- failure of the claimant to appear at the hearing, and
- claimant requests to postpone issuance of a decision until additional evidence could be supplied.

Another kind of delay, we were informed, results from claimants waiting until the last possible moment to hire an attorney. As a result, the attorney is unprepared and may request a hearing postponement.

If a claimant has a valid reason for requesting postponement of the hearing or decision, the ALJ will grant one. Likewise, if the claimant has a good reason for his failure to appear for a consultative examination or a hearing, it will be rescheduled. However, if the claimant does not have a good reason, the ALJ may proceed without the claimant's having the benefit of a consultative examination or may dismiss the case if the claimant fails to appear at the hearing.

Failure by a claimant to appear for a hearing or examination wastes time and money. If a claimant does not keep an appointment for a consultative examination, the physician may charge the Government for the appointment. This happens approximately 20 percent of the time, a State agency official estimated. If a claimant fails to appear for a hearing or requests a last-minute postponement, not only may the ALJ's preparation time be wasted but the Government must pay any expert witnesses who were to appear at the hearing. Many ALJs said that failure of claimants to appear for a hearing was a problem. For example, one ALJ scheduled 41 hearings for a particular month; 14 of the claimants, 34 percent, failed to appear.

STAFFING PROBLEMS

Problems in obtaining ALJs contribute to hearing delays. SSA has not been able to obtain enough ALJs for all hearing offices. This has caused some hearing offices to consistently have a larger backlog per ALJ than others. As a result, claimants living in these areas generally wait a longer time for a hearing.

CSC administers the ALJ program for all Federal agencies employing ALJs. CSC establishes hiring qualifications, recruits ALJs by placing advertisements in national legal publications, maintains lists of eligible applicants, and approves promotions and transfers. Eligible applicants may be hired by any agency. Depending on their qualifications, ALJs may be eligible for positions at more than one salary level.

Many of the names CSC has provided SSA have appeared on prior lists. They mainly include individuals who have previously declined SSA employment, sometimes more than once, usually because (1) they are eligible for higher-salaried ALJ positions and are awaiting such appointments or (2) they are seeking positions in certain locations. Also included are individuals whom SSA has previously chosen not to employ. The following schedule illustrates this problem.

<u>Date of SSA request</u>	<u>Number of names forwarded by CSC</u>	<u>Number of names appearing on prior SSA lists</u>
June 1974	48	10
Mar. 1975	120	43
Sept. 1975	103	58

SSA prepares a list of cities in which it needs ALJs and sends it to the eligible ALJ applicants whose names are supplied by CSC. If none of the applicants are interested in employment in a particular city, SSA cannot fill the position. SSA's success in filling positions is shown in the following schedule.

<u>Date of SSA request</u>	<u>Number of ALJs needed</u>	<u>Positions filled</u>	
		<u>Number</u>	<u>Percent</u>
June 1974	25	19	76
Mar. 1975	75	43	57
Sept. 1975	50	23	46

Because of these unfilled positions, SSA officials stated that they hire ALJs where they can and transfer cases to them from offices with unfilled positions. This method of hearing cases is more costly and inefficient than having ALJs stationed in the offices where the hearings must be held.

The director of the office of ALJs of the CSC stated that he believed recruiting ALJs is not a problem and that a sufficient number of eligible applicants is available. He was aware that SSA had problems filling ALJ positions in some locations.

He had not, however, taken any specific action since SSA had not officially communicated its problem to him.

We believe SSA should have specifically notified CSC about problems it was having in hiring ALJs for certain locations. We also believe CSC, as administrator of the ALJ program, should have (1) recognized that SSA consistently did not hire as many ALJs as it stated were needed and (2) questioned SSA about these problems and then tried to find a solution. Although SSA is only one of the many Federal agencies for which CSC certifies individuals for employment as ALJs, special attention should be given to the needs of SSA because it employs over 50 percent of the ALJs in the Federal Government. The responsible CSC official stated that special efforts had been made in the past for other agencies. We see no reason why CSC, in cooperation with SSA, could not make special efforts to solicit applications from individuals residing in locations for which SSA has difficulty in hiring ALJs.

SSA officials told us that recent legislation permitting SSI hearing examiners to hear all types of cases has temporarily relieved the agency's ALJ shortage problem. This, of course, does not preclude a staffing problem arising in the future.

Inefficient use of staff

Hearing personnel are not utilized by ALJs as efficiently and effectively as possible. In addition, job descriptions do not clearly differentiate the duties of personnel at different levels of responsibility but overlap in many respects. As a result, staff members at different levels of responsibility and pay can carry out many of the same activities.

In addition to a basic staff which consists of a hearing assistant and secretary, some ALJs have an additional hearing assistant, secretary, staff attorney, or typist, or some combination of these. The main function of the hearing assistant is to prepare a case for hearing under the supervision of the ALJ. This includes identifying issues, obtaining evidence, and selecting exhibits. The function of the staff attorneys, who are higher-salaried employees than the hearing assistants, is to conduct legal research and assist ALJs in writing decisions.

Aside from the ALJ's staff, development centers, which prepare SSI and concurrent cases, are staffed with hearing analysts. Their responsibilities are similar to those of the

hearing assistant but their salary level is generally the same as a staff attorney's.

In practice the duties performed by hearing assistants, hearing analysts, and staff attorneys are similar. Because each ALJ has developed individual work methods, each utilizes staff members in his or her own way. Further, the ALJ, rather than simply review his or her staff members' performance, may perform some of the duties assigned to staff members by their job descriptions. The following chart illustrates some case processing activities which are listed in the job descriptions of these employees.

<u>Activity</u>	<u>Assigned to and performed by</u>		
	<u>Staff attorney</u>	<u>Hearing assistant</u>	<u>Hearing analyst</u>
Identifies problems and defines issues	X	X	X
Analyzes evidence	X	X	X
Assures prior determinations were properly carried out		X	X
Compiles information into logical presentation		X	X
Summarizes facts	X	X	X
Prepares exhibit list		X	X
Obtains additional evidence	X	X	X
Prepares replies to inquiries	X	X	X
Conducts prehearing conferences with claimants	X	X	

To eliminate such overlapping of responsibilities, job descriptions should be revised. Employees who have been hired for a specific job at a specified salary should be utilized according to their job descriptions. This should result in a more efficient work flow and eliminate the waste of funds caused by using higher-level employees for lower-level tasks.

To illustrate, presently in some hearing units the staff attorney is responsible for identifying issues, obtaining evidence, and selecting exhibits; this results in the hearing assistant performing many secretarial tasks. In some units without staff attorneys, ALJs review the claim to identify issues and determine what further evidence is needed. In such units, in which staff attorneys or ALJs perform duties which hearing assistants are capable of performing, the skills of the higher-level personnel are not being utilized efficiently. Generally, the hearing assistants with whom we spoke believed that they could be of more assistance to the hearing unit, particularly if they had fewer secretarial duties.

CHAPTER 3

EFFORTS TO SPEED UP THE HEARING PROCESS

SSA's goal is to reduce the backlog and thereby achieve a 90-day hearing process for most cases by June 1977. To achieve this, SSA has implemented the following efforts aimed at increasing productivity and cutting hearing workload and backlog:

- Increasing ALJ productivity by urging additional effort and providing additional staff and improved equipment.
- Experimenting with model hearing offices in which new positions have been established, personnel responsibilities shifted, and case processing streamlined.
- Reducing the hearing workload by remanding potentially awardable cases to State agencies for review and personally contacting the claimant upon reconsideration of his claim to explain the basis of the denial for benefits.

INCREASING PRODUCTIVITY

SSA established the 90-day goal in September 1975. This was to be achieved, as noted above, after the backlog had been reduced through increased productivity. The target date is June 1977. To meet this objective, ALJs, aided by additional staff and improved equipment, were requested to increase productivity from 15 cases in each 4-week period (average productivity in fiscal year 1974) to 26.

Although SSA made no studies to support the prospect of ALJs reaching this productivity level, some had obtained the goal by December 1975. However, it is uncertain when the 26-case-per-4-week level will be reached by all ALJs.

ALJs we spoke to generally believed that with the addition of one or two support staff, a production goal of 26 cases per 4-week period is achievable; some believe that this number is low. The effect of staff increases had not been formally analyzed by SSA as of January 1976, yet productivity was already approaching the goal. Nationally, average ALJ productivity rose from 16 cases per period in January 1975 to 23 cases in January 1976. SSA reported that of its 636 ALJs, 171 had achieved the goal in the 3-month period ending December 6, 1975.

Regional chief ALJs with whom we met generally agreed that most ALJs were making an effort to increase productivity. They

cited peer pressure, additional staff support, and better equipment as the chief contributors to such an increase. However, the regional chiefs believe it to be physically impossible for some ALJs to hold enough hearings to produce decisions at this rate; they believe individual ALJs' work methods will be prohibitive in some instances. Additionally, some ALJs believe that the quality of their work would suffer too greatly to produce at this level.

Pressure to increase productivity could adversely affect the quality of decisions. Because not enough data was available, we were unable to determine whether SSA's efforts to accelerate productivity were having such an effect. SSA has, however, instituted a systematic quality assurance program which is expected to be fully implemented by September 1976. This system should enable SSA to monitor the effect increased productivity is having on the quality of decisions.

Additional staff

SSA made no cost-benefit studies to support hiring some of the more than 1,000 personnel who were added during fiscal year 1976. As a result, SSA had no assurance that the types and numbers of personnel hired would provide the greatest benefit.

Most of the additional personnel were support staff for ALJs. SSA, however, made no studies to determine the most efficient and effective staffing pattern for a hearing unit. Before these increases, few units deviated from the basic structure of ALJ, hearing assistant, and secretary, even though some ALJs had achieved considerably greater productivity with additional hearing assistants and secretaries. Several of the ALJs we interviewed indicated that restriction to the traditional two-individual basic staff interfered with their ability to increase productivity.

The most important additions to the ALJs' staffs were the staff attorneys which SSA began to hire in August 1975. The staff attorneys and clerk-typist assistants were assigned to certain ALJs to relieve them of prehearing and posthearing activities such as performing research, completing case records, and writing decisions. This was intended to allow ALJs to devote more time to holding hearings. As of January 1976, 168 of the 342 authorized staff attorneys had been hired and assigned to hearing offices. The staff attorneys and assistants are being hired as temporary employees for a 2-year period, after which SSA will make a decision regarding the continuation of the program.

SSA has been monitoring the results of the program, but it has no basis for assessing results. SSA anticipated that with 4 months' experience a staff attorney and clerk-typist would enable an ALJ to increase his or her production by a minimum of four cases per 4-week period. No study or testing prior to implementation was done to determine whether this goal was realistic or sufficient to justify the cost of the additional personnel. At the time of our review, many staff attorneys had only recently been assigned. Available statistics did not show increases in productivity attributable solely to the staff attorneys.

SSA plans to (1) evaluate the staff attorney program by comparing the cost and added productivity of staff attorneys with that of additional hearing assistants or secretaries and (2) compare the benefits of hiring additional support staff versus hiring more ALJs.

Model hearing offices

Three hearing offices were selected for a model hearing office study. Under the study, new positions were established, responsibilities were shifted among staff members, and the case flow was redirected within the office to eliminate duplicative efforts.

In establishing the model hearing offices, SSA recognized that duties of hearing assistants and secretaries overlapped, that differences in operating methods caused some units to work more efficiently than others, and that hearing office operations could suffer from a lack of control over such matters as assignment and scheduling of cases and utilization of equipment and resources. Accordingly, in the model hearing offices, SSA

- hired administrative officers to supervise the clerical staff and provide controls over the office operations and

- defined and standardized the duties of the hearing assistant and the secretary.

Case processing procedures were modified so that cases were assigned immediately to ALJs; in the past, cases were assigned either periodically or when an ALJ's caseload became low. The model method would permit each ALJ to be aware of his total workload and would permit his staff to develop as many cases as possible, independent of the ALJ's production.

The hearing assistant's responsibilities for attending the hearing to record testimony and to serve as a witness

were transferred to the secretary so that the hearing assistant's time could be devoted to preparing cases. To facilitate final typing, clerk-typists were appointed to operate automatic typewriters on which all draft decisions were prepared.

The first model office experiment began in November 1975. An SSA official stated that evaluations began in May 1976. By monitoring the time required for the various processing steps and the increases in productivity, SSA hopes to identify the effectiveness of the various changes. There are no goals concerning the increase in productivity which should result from these changes. The evaluation will be conducted by comparing the productivity of these offices with that of others in the regions and with national figures.

REDUCING THE HEARING WORKLOAD

Fewer requests for hearings would help reduce the backlog and, consequently, improve SSA's attempts to speed up the hearing process. SSA is making the following efforts to reduce the hearing workload.

Informal remand

Many State agency decisions are reversed by ALJs because a claimant's condition has deteriorated or new evidence has become available by the time a hearing is held. To eliminate these potentially awardable cases from the hearing process, SSA introduced an informal remand procedure in mid-1975. When a claimant requests a hearing and alleges that new circumstances have arisen, and such circumstances (such as a worsening of his condition) increase the likelihood of reversal, the SSA district office will return the case to the State agency. The latter has 60 days to update the file and render a decision. If the decision is favorable, there is no need for a hearing; if unfavorable, the claim reenters the hearing process in the place it would have had if it had not been remanded.

The informal remand procedure has the potential to considerably speed up the disposition of claims. It can reduce the number of hearings, thereby permitting SSA to hear other backlogged cases sooner. From the viewpoint of the claimant whose claim is awarded, the lengthy hearing process is avoided and he receives his benefits sooner. A claimant who does not receive an award often has had his file updated, and accordingly his claim should move through the hearing process faster. In hearing offices where there is no backlog, a disadvantage does exist to claimants whose decisions are not reversed by the State agencies. This is due to the 60-day period in which the State agencies must render their decision.

As of August 1976, SSA district offices had remanded more than 85,510 cases, of which 10 percent were awarded. The low rate of awards, we believe, indicates that SSA district offices are remanding too many cases. This may be due to the criteria which the district offices use in determining whether a case should be remanded. Current criteria merely require that the claimant allege a worsening or change in his condition. Generally, no supportive evidence is needed.

Since State agencies are reimbursed for informal remands, an excessive number of unawarded remands is very costly. For fiscal years 1976 and 1977, SSA estimates that about 150,000 cases will be remanded, at a cost of \$17 million. SSA officials told us they plan to evaluate the results of informal remand to determine what award rate would qualify the program as worthwhile. It should also be pointed out that the benefits of informal remand may be neutralized somewhat by recent legislation (Public Law 94-202). A claimant is now required to request a hearing within 60 days of the State agency's reconsideration decision. Previously, when a claimant had 6 months to make such a request, there was a greater chance of his condition deteriorating.

Reconsideration interviews

SSA conducted a study to determine if personally contacting the claimant upon reconsideration of his claim would prevent cases from reaching the hearing level unnecessarily. Unless the claim was clearly awardable when reconsidered, the State agency interviewed the claimant to explain the basis of the original denial, obtain an explanation from the claimant as to why he disagreed with the initial determination, and determine whether any additional evidence was available which would result in the claim being awarded. The study also had other advantages. For example, it gave the claimant an opportunity to add new material to his case at an early stage and made it possible for him to obtain a fuller understanding of disability requirements.

The study included (1) a control group of claims processed under normal reconsideration procedures according to which the claimant is not usually contacted by the State agency and (2) an experimental group processed under the new procedures. Results of the study in 16 States showed that the State agencies awarded more claims under the new procedures. Only 30 percent (1,955 of 6,592) of the claims in the control group were awarded, compared to 45 percent (3,148 of 6,924) in the experimental group. Additionally, a lower percentage of those in the experimental group whose claims were denied filed for a hearing.

SSA's preliminary estimates of this program indicate that full implementation in the first year would cost \$18.6 million. This, however, is expected to be offset by savings resulting from reduced workloads in SSA district offices and fewer hearings. This procedure is to be implemented over a 3-year period beginning January 1978.

CHAPTER 4

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

Under SSA's present appeals system, there is no quick and simple solution to the problem of hearing delays. The most serious delay problem is the backlog. SSA will not be able to dispose of hearing requests within their 90-day goal until the backlog is considerably reduced. This will take time. Proposed legislation requiring SSA to rehear certain black lung cases will, if enacted, have a large effect on the system and may slow the progress being made by SSA.

Barring dramatic manpower increases or a radical restructuring of the hearing process, only time and improvements in its present adjudicatory system will enable SSA to move more rapidly toward its goal. Here too, unfortunately, SSA is impeded by some largely uncontrollable factors. Obtaining medical evidence, for example, is usually a necessary part of the hearing process. Yet, prompt submission of this evidence by hospitals or physicians is something over which SSA can exert little if any control. Nevertheless, we believe that certain elements of the hearing process can be improved, which should alleviate delay problems.

SSA is to be commended for recognizing the extent of its problems and attempting to resolve them. Since many of its efforts will require large expenditures, however, it is necessary that it properly test and evaluate experimental programs before their implementation to determine whether the benefits to be expected from them are worthwhile. Proper testing should also be done to establish the controls and evaluative standards which will be necessary to derive full benefit from the programs. For example, although the additional staff added by SSA can help to reduce the backlog, consideration should have been given to costs and benefits and to alternative variations of staff. Testing should also have been done to establish controls and reasonable evaluation standards. SSA added staff attorneys to the ALJs' staff without testing to determine what it could expect of them so that it could properly evaluate their performance and decide how they could be used to the fullest benefit. In view of the lack of these considerations, we question whether similar results to those already achieved could not have been achieved for less expense. The same holds true for other innovative but potentially costly programs such as the development centers and informal remands.

We recognize that SSA has been under pressure from the Congress and the public to hold hearings more promptly. Faced with a crisis, SSA believed it was necessary to take important actions immediately, such as hiring additional staff. We do not believe, however, that this justifies a lack of consideration for cost and efficiency. SSA should consider costs versus benefits, efficiency, and alternatives in the programs it has already implemented.

RECOMMENDATIONS

We recommend that the Secretary, HEW, direct the Commissioner, SSA, to

- assure that State agencies have procedures for informing claimants of specific reasons for denials of their claims;
- assure that the same disability criteria are applied by State agencies and ALJs;
- identify specific problems causing delays in forwarding claims files to hearing offices and seek solutions to these problems;
- wherever possible, assign cases immediately to ALJs instead of keeping them on master dockets;
- either eliminate development centers or establish clearly defined objectives aimed at (1) avoiding the duplication which currently exists and (2) closely tying development center functions to the needs of ALJs;
- review and revise policies on ALJ travel and transfer of cases to minimize hearing delays;
- officially notify CSC of its need for ALJs in specific problem locations in future hirings;
- clearly define job descriptions of hearing personnel to differentiate their responsibilities and take steps to assure that such personnel are used according to their job descriptions;
- establish stricter criteria for SSA district offices to follow in informally remanding cases to State agencies; and
- insure that studies of the beneficial value, necessary controls, alternatives, and evaluative standards for experimental programs are determined before implementation on a large scale.

We also recommend that the Chairman, CSC, take steps to (1) determine from SSA the areas for which it is unable to obtain sufficient numbers of ALJs and (2) make special efforts to obtain ALJs for these problem locations.

PRINCIPAL OFFICIALS
RESPONSIBLE FOR ADMINISTERING
ACTIVITIES DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<u>DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE</u>		
SECRETARY OF HEALTH, EDUCATION, AND WELFARE:		
David Mathews	Aug. 1975	Present
Caspar W. Weinberger	Feb. 1973	July 1975
Elliot L. Richardson	June 1970	Jan. 1973
COMMISSIONER, SOCIAL SECURITY ADMINISTRATION:		
James Bruce Cardwell	Oct. 1973	Present
Arthur E. Hess (Acting)	Mar. 1973	Oct. 1973
Robert M. Ball	Apr. 1962	Mar. 1973
DIRECTOR, BUREAU OF HEARINGS AND APPEALS:		
Robert Trachtenberg	Jan. 1975	Present
H. Dale Cooke	Oct. 1971	Jan. 1975
Charles M. Erisman (Acting)	Jan. 1970	Oct. 1971
<u>CIVIL SERVICE COMMISSION</u>		
CHAIRMAN:		
Robert E. Hampton	July 1961	Present
DIRECTOR, OFFICE OF ADMINISTRATIVE LAW JUDGES:		
Charles J. Dullea	Apr. 1971	Present



RELEASED

12-09-76

Released

DOCUMENT RESUME

01096 - [A0100015]

Proposed Lease of Space in a Building at 400 North Capitol Street, Washington, D. C. LCD-76-353; B-148004. October 1, 1976. Released December 9, 1976. 4 pp. + enclosure (1 pp.).

Report to Nelson A. Rockefeller, Senate: President of the Senate; by Elmer B. Staats, Comptroller General.

Issue Area: Facilities and Material Management: Building, Buying, or Leasing Federal Facilities and Equipment (706).

Contact: Logistics and Communications Div.

Budget Function: General Government: General Property and Records Management (804).

Organization Concerned: Senate: Sergeant at Arms.

Congressional Relevance: Senate.

Authority: Economy Act of 1932 (40 U.S.C. 278a). P.L. 94-157, sec. 112.

A review was made of a proposed lease to the Government of a building at 400 North Capitol Street, Washington, D. C., the North Capitol Plaza Building, to be negotiated by the Senate Sergeant at Arms as authorized by Congress. Negotiations for leasing of the entire building failed because of inability to agree on terms. Proposals for purchase of the building were defeated in the Senate, and plans were made by the Senate to lease a portion of the building for computer operations. The time period for completion of the GAO review did not allow for study of the finalized lease or alternative arrangements. Findings: The rates proposed by the owner appeared high compared with GSA appraised rentals. After the Sergeant at Arms was informed of these findings, he negotiated for terms which brought the effective rate to \$6.175 a square foot and the adjusted rate to \$7.97 a square foot. These rates are considered reasonable according to GSA appraisals, legislated rental limitations, and comparisons with other tenants in the building. In addition, proximity to other Senate buildings is of value. Recommendations: Standard lease provisions used by GSA should be modified to meet Senate needs. It would be reasonable for owners to refuse to accept an option to purchase clause since proposed lease is for only 6.8% of the office space in the building. (HRW)