



Highlights of GAO-04-14, a report to congressional requesters

November 2003

## SSA DISABILITY DECISION MAKING

### Additional Steps Needed to Ensure Accuracy and Fairness of Decisions at the Hearings Level

#### Why GAO Did This Study

Historically, the proportion of the Social Security Administration's (SSA) disability benefits claims that were approved has been lower for African-Americans than for whites. In 1992, GAO found that racial differences, largely at the Administrative Law Judge (ALJ) level, could not be completely explained by factors related to the decision-making process. This report examines how race and other factors influence ALJ decisions and assesses SSA's ability to ensure the accuracy and fairness of ALJ decisions.

#### What GAO Recommends

GAO recommends that SSA enhance its ALJ quality assurance reviews by

- incorporating cases that are appealed to SSA's Appeals Council in the quality assurance review sample,
- conducting ongoing as well as in-depth analyses of ALJ decisions by race and other factors, and
- publishing these results in its biennial reports.

Further, GAO recommends that SSA

- take action, as needed, to correct and prevent unwarranted allowance differences; and
- establish an expert advisory panel to provide ongoing leadership, oversight, and technical assistance with respect to ALJ quality assurance reviews.

SSA agreed with GAO's recommendations.

[www.gao.gov/cgi-bin/getrpt?GAO-04-14](http://www.gao.gov/cgi-bin/getrpt?GAO-04-14).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robert E. Robertson at (202) 512-7215 or [RobertsonR@gao.gov](mailto:RobertsonR@gao.gov).

#### What GAO Found

GAO controlled for factors that are related to the disability decision-making process at the Administrative Law Judge level and found:

- no statistically significant difference in the likelihood of being allowed benefits between white claimants and claimants from other, non-African-American racial/ethnic groups; and between white claimants and African-American claimants who were represented by attorneys;
- statistically significant differences between white and African-American claimants who were not represented by attorneys. Specifically, among claimants without attorneys, African-American claimants were significantly less likely to be awarded benefits than white claimants; and
- other factors—including sex, income, and the presence of a translator at a hearing—also had a statistically significant influence on the likelihood of benefits being allowed.

Due to the inherent limitations of statistical analysis, one cannot determine whether these differences by race, sex, and other factors are a result of discrimination, other forms of bias, or variations in currently unobservable claimant characteristics.

Analytical, sampling, and data weaknesses in SSA's approach to quality assurance reviews limit its ability to ensure the accuracy and fairness of ALJ decisions. For example:

- **Analytic weaknesses:** SSA analyzes ALJ decisions by various factors, such as SSA region, but not by the claimant's race.
- **Sampling weaknesses:** SSA currently excludes cases that have been appealed to the Appeals Council from the pool of ALJ cases that undergoes the quality assurance review. The exclusion of these cases could mean that the sample used by SSA in its quality assurance review is not representative of all ALJ decisions. While GAO did not find large differences in the sample of cases from 1997 to 2000 that it used for its analysis, the continued, systematic exclusion of cases that are under appeal could in the future result in an unrepresentative sample of all ALJ decisions.
- **Data limitations:** even if SSA wanted to conduct analyses by race/ethnicity, it would encounter difficulties doing so in the near future because, since 1990, SSA significantly scaled back its collection of race/ethnicity data. Although GAO had sufficient race data for its study, the scaled back collection of race/ethnicity data will impact SSA's future efforts to study ALJ benefit decisions by race. During GAO's review, however, SSA decided to collect race/ethnicity data for persons applying for Social Security benefits.