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SOCIAL SECURITY DISABILITY

Additional Performance Measures and Better Cost Estimates Could Help Improve SSA's Efforts to Eliminate Its Hearings Backlog



GAO

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Highlights of [GAO-09-398](#), a report to congressional committees

Why GAO Did This Study

The Social Security Administration (SSA) has experienced processing delays and significant backlogs of disability claims at the hearings level. In May 2007, SSA began implementing a plan for eliminating the hearings backlog entitled *Summary of Initiatives to Eliminate the SSA Hearings Backlog* (the Plan). In response to a congressional request, GAO (1) examined the Plan's potential to eliminate the hearings-level backlog, (2) determined the extent to which the Plan included components of sound planning, and (3) identified potential unintended effects of the Plan on hearings-level operations and other aspects of the disability process.

To address these objectives, GAO analyzed SSA data, conducted a risk analysis, assessed the Plan and its update—the May 2009 Draft Appomattox Plan—using planning criteria identified in previous GAO work, interviewed SSA officials, and conducted site visits in three SSA regions.

What GAO Recommends

GAO recommends that SSA develop additional performance measures and cost estimates for its critical initiatives, as well as conduct an analysis of risks associated with Plan implementation and identify steps to address them. SSA said that it has taken or has planned actions to develop performance measures as appropriate. SSA disagreed that it should develop further cost estimates, but agreed it should conduct risk analyses and outlined steps it is taking to do so.

View [GAO-09-398](#) or [key components](#). For more information, contact Daniel Bertoni, (202) 512-7215, bertonid@gao.gov.

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What GAO Found

SSA's Plan should help the agency reduce its hearings-level backlog, but the likelihood that SSA will eliminate the backlog within its projected time-frame depends on the extent to which SSA's assumptions for improved administrative law judge (ALJ) hiring, availability, and productivity are achieved in practice. Both SSA and GAO believe that the agency has about a 78 percent chance of eliminating the backlog, that is, reducing the number of hearings-level pending claims below 466,000 claims, by the end of fiscal year 2013—SSA's target date—if those assumptions are fully realized. However, SSA's assumptions project higher levels of performance achieved than recent experience—from fiscal year 2008 to April 2009. ALJ productivity improvements are especially important to SSA's reaching its goal. The likelihood that SSA will eliminate the backlog by its target date changes under different scenarios for achieving its ALJ hiring, availability, and productivity goals. If SSA achieves its average ALJ productivity, but not its ALJ hiring and availability goals, GAO estimated that SSA's chances are reduced from about 78 percent to about 53 percent. Conversely, if SSA achieves its goals for ALJ hiring and availability, but not for average productivity, its chances are about 34 percent. If SSA is unable to achieve any of its ALJ workforce and performance goals, the likelihood of the agency eliminating the hearings-level backlog by its target date drops to about 14 percent.

SSA's Plan includes important elements of the six components of sound planning GAO identified in previous work, but does not provide some key management information that could facilitate effective plan management. SSA did not fully address elements of two components. Specifically, the Plan does not include performance goals and measures for about half of the initiatives and cost estimates for many, which would allow SSA to evaluate the initiatives' effect on the hearings-level backlog and determine resource allocations and return on investment. Although the Plan does not identify implementation risks or strategies to address them, SSA officials said they are developing a system that will aid in creating formal performance goals and measures and risk analysis, several of which SSA plans to release in the fall of 2009.

The Plan could have unintended effects on SSA offices involved in the disability process. For example, the Plan's initiatives to increase the number of hearings-level decisions could affect decisional quality and accuracy, and increase workloads in offices that are responsible for reviewing appeals of hearing office decisions, processing payments for claims, and conducting continuing disability reviews to determine whether beneficiaries remain eligible for benefits. Although SSA has developed plans to address increased workloads related to appeals of hearing decisions and monitors other disability workloads, it does not have a systematic approach to identify and address unintended effects caused by Plan initiatives over the course of the Plan.

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Abbreviations

AALJ	Association of Administrative Law Judges
ALJ	administrative law judge
CDR	continuing disability review
CCS	Case Control System
CPMS	Case Processing and Management System
DARES	Disability Adjudication Reporting and Evaluation System
DCO	Deputy Commissioner of Operations
DDS	Disability Determination Services
DIODS	Disability Operations Data Store
DSI	Disability Service Improvement
FIT	Findings Integrated Template
HOTS	Hearing Office Tracking System
HPI	Hearings Process Improvement
NADE	National Association of Disability Examiners
NOSSCR	National Organization of Social Security Claimants' Representatives
ODAR	Office of Disability Adjudication and Review
SSA	Social Security Administration
SSAB	Social Security Advisory Board

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United States Government Accountability Office
Washington, DC 20548

September 9, 2009

The Honorable Tom Harkin
Chairman
The Honorable Thad Cochran
Ranking Member
Subcommittee on Labor, Health
and Human Services, Education,
and Related Agencies
Committee on Appropriations
United States Senate

The Honorable David R. Obey
Chairman
The Honorable Todd Tiahrt
Ranking Member
Subcommittee on Labor, Health
and Human Services, Education,
and Related Agencies
Committee on Appropriations
United States House of Representatives

Each year, millions of Americans who believe that they can no longer work because of severe physical or mental impairments apply for cash benefits through the Social Security Administration's (SSA) two disability programs—Disability Insurance and Supplemental Security Income. From fiscal years 1997 through 2006, the total number of backlogged claims in these programs more than doubled, with the greatest accumulation of claims occurring among those that were awaiting a decision at the hearings level, where claimants who are dissatisfied with the state determination of their claim can request a hearing before an administrative law judge (ALJ). Backlogged claims at the hearings level—those exceeding the level SSA considers optimal for work to continually move through the hearings-level process—rose from 12,000 in 1999 to nearly 295,000 by the close of fiscal year 2008. In addition, claimants had to wait, on average, almost a year and a half after they requested a hearing to learn the outcome of their claims during fiscal year 2008. In light of disability backlogs and other program challenges at SSA and

other agencies, we first designated federal disability programs a high-risk area in 2003 and continue to consider them a high-risk area in 2009.¹

The current recession is contributing to a significant increase in disability claims receipts. This occurrence has the potential to further exacerbate SSA's challenges in eliminating its disability claims backlog. To help address increased claims receipts and its claims backlog, Congress provided SSA additional funding through the American Recovery and Reinvestment Act of 2009 (Recovery Act) and its fiscal year 2009 appropriation.²

In May 2007, SSA presented to Congress and began implementing a plan for eliminating the hearings-level backlog and preventing its recurrence entitled *Summary of Initiatives to Eliminate the SSA Hearings Backlog* (the Plan). In response to a request by the House and Senate Appropriations Committees, we (1) examined the Plan's potential to eliminate the hearings-level backlog, (2) determined the extent to which the Plan included components of sound planning, and (3) identified potential unintended effects of the Plan on hearings-level operations and other aspects of the disability process.

To address the Plan's potential to eliminate the hearings-level backlog by fiscal year 2013, we documented assumptions that SSA used to project this target date. We examined the reasonableness of these assumptions using recent (fiscal year 2008 through April 2009) workload and performance data and interviews with SSA officials. We also used a commercially available forecasting and risk analysis software program to determine the likelihood of SSA eliminating the hearings-level backlog by 2013. See appendix II for additional information on our projection modeling methodology and assumptions used in this analysis. To determine the extent to which SSA's Plan included components of sound planning, we assessed the Plan against criteria from previous GAO reports that

¹GAO, *High-Risk Series: An Update*, [GAO-03-119](#) (Washington, D.C.: January 2003), and *High-Risk Series: An Update*, [GAO-09-271](#) (Washington, D.C.: January 2009).

²Pub. L. No. 111-5, 123 Stat. 115, 185 and Pub. L. No. 111-8, 123 Stat. 524, 800-01. The American Recovery and Reinvestment Act of 2009 funds were expected to allow SSA to process its claims in a timely manner and accelerate activities to reduce its backlog. H. R. Rep. No. 111-16, at 461 (Conf. Rep.).

identified desirable characteristics of an effective, results-oriented plan.³ We also evaluated additional planning documentation provided by SSA, including its Draft Appomattox Plan, and interviewed SSA officials to determine how the agency developed the Plan and is monitoring its implementation.⁴ To identify potentially unintended effects of the Plan on hearings-level operations and other aspects of the disability process, we conducted site visits to three regions, including seven hearing offices, two state Disability Determination Services (DDS) offices, one program service center, one SSA field office, and one teleservice center.⁵ We selected one region that performed above average and two that performed below average based on regional performance factors, such as the number of backlogged claims per ALJ. In our site selection, we also took into consideration regions that would potentially be most affected by the Plan because they had the largest backlogs. We selected the seven hearing offices within the three regions based on differences in terms of receipts, backlogged claims, and average number of dispositions per ALJ, as well as their reasonable proximity to each other within each selected region and their involvement in implementing select Plan initiatives.⁶ In addition, we conducted phone interviews with staff from several additional offices in our three selected regions, including one DDS office, one program service center, three field offices, and one Regional Office of Quality Assurance. In addition, we interviewed SSA central office officials and representatives of relevant associations. We conducted our work between May 2008 and September 2009 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 that the evidence obtained provides a reasonable basis for our

³GAO, *Combating Terrorism: Evaluation of Selected Characteristics in National Strategies Related to Terrorism*, GAO-04-408T (Washington, D.C.: Feb. 3, 2004), and *Executive Guide: Effectively Implementing the Government Performance and Results Act*, GAO/GGD-96-118 (Washington, D.C.: June 1996).

⁴The Appomattox Plan is SSA's May 2009 draft update to the Plan.

⁵A teleservice center has SSA representatives who answer beneficiary questions about eligibility for benefits and SSA's programs.

⁶Hearings-level dispositions include decisions made by ALJs as a result of a hearing, decisions based solely on a review of the claim file by ALJs or attorney advisors, or hearings-level dismissals, such as when a claimant does not show for a hearing or claims are returned to state DDS offices.

findings and conclusions based on our audit objectives. See appendix I for more information on our scope and methodology.

Background

Under the Social Security Act, SSA administers both the Disability Insurance and Supplemental Security Income programs.⁷ Disability Insurance replaces a portion of income related to prior earnings levels for those with a Social Security work record, while the Supplemental Security Income program provides cash benefits to the elderly and individuals with disabilities who have limited or no work history as well as limited income and resources.⁸ To be considered disabled for purposes of eligibility under either program, individuals must be unable to engage in any substantial gainful activity by reason of a medically determinable impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.⁹

⁷Throughout this report, when we refer to SSA disability claims, we are referring to claims filed under the Disability Insurance and Supplemental Security Income programs.

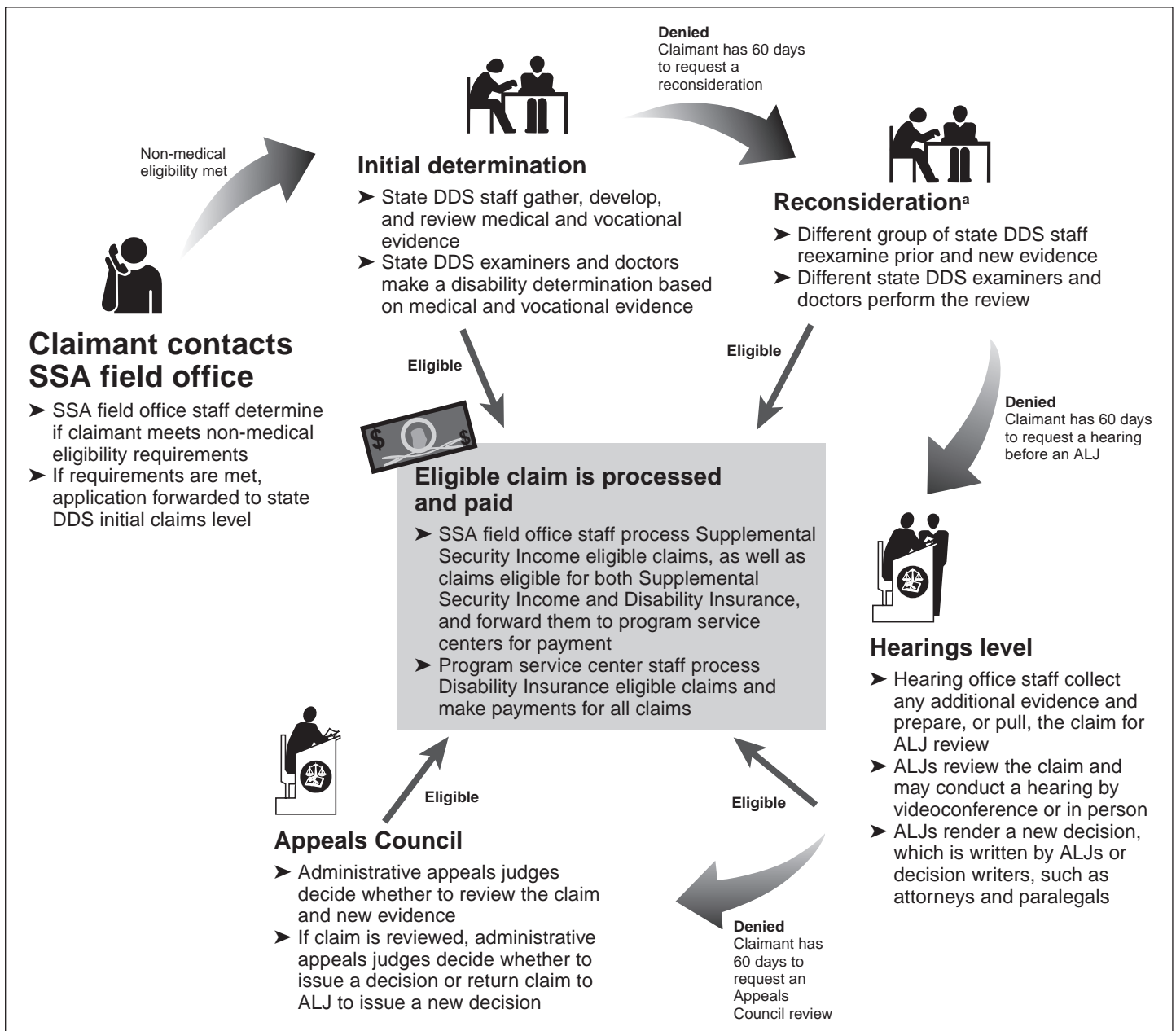
⁸Eligibility for SSI is restricted to individuals who have countable resources, determined monthly, that do not exceed \$2,000 (\$3,000 for a couple) as well as limited income based on certain criteria. 42 U.S.C. § 1382(a)(3).

⁹42 U.S.C. § 416(d)(1)(A). Substantial gainful activity is work activity involving significant physical or mental activities and usually done for pay or profit, whether or not a profit is realized. 20 C.F.R. §§ 404.1572 and 416.972 (2009).

SSA Disability Process

The process to obtain SSA disability benefits is complex and can involve several state and federal offices. The disability adjudication process, which is the same for Disability Insurance and Supplemental Security Income claimants, can involve an initial determination and an opportunity for reconsideration at the state level with two subsequent levels of appeals in SSA hearing offices and the Appeals Council, which is SSA's final administrative appeals level. Claimants must file any further action in federal court. Claims at all levels for which the claimant is determined to be eligible for Supplemental Security Income payments or entitled to Disability Insurance benefits, also called favorable claims, are forwarded to other SSA offices for payment. (See fig. 1.)

Figure 1: SSA's Disability Process



Sources: GAO analysis of SSA data; images, Art Explosion.

^aIn 1999, SSA eliminated the reconsideration step in 10 states (Alabama, Alaska, Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York, Pennsylvania, and in the Los Angeles area of California) as part of the Prototype Initiative. In these states, claimants who wished to appeal their initial DDS determination must appeal for review before an ALJ.

Key SSA offices involved in the disability process include the Office of Disability Determinations, which oversees state DDS offices that make medical determinations regarding claimants' alleged disabilities, and the Offices of the Regional Commissioner, which oversees the offices that are involved with making payments to claimants who are eligible for benefits. In addition, the Office Disability Adjudication and Review (ODAR) oversees hearing offices and the Appeals Council. (See table 1.)

Table 1: Key SSA Offices Involved in the Disability Process

Office of Deputy Commissioner	Office	Function
Operations	Office of Disability Determinations	Oversees state DDS offices, which determine claimants' eligibility for disability benefits
	Offices of the Regional Commissioner	Oversees SSA field offices, which provide a contact for claimants and are involved in processing favorable claims for payment, and oversees program service centers, which are involved in processing and making payments for favorable claims
Disability Adjudication and Review	Office of Appellate Operations (Appeals Council)	Serves as the final level of administrative review under the Administrative Procedure Act for disability claims
	Office of the Chief Administrative Law Judge	Serves as the principal consultant and advisor to the Deputy Commissioner on all matters concerning the ALJ hearing function
	Office of Management	Provides administrative support for all management and office automation activities related to ODAR
Retirement and Disability Policy	Office of Disability Programs	Plans, develops, evaluates, and issues substantive regulations, policies, standards, and instructions for the state and federal adjudicators who implement SSA-administered disability programs
Quality Performance	Office of Quality Review	Reviews, evaluates, and assesses the integrity and quality of the administration of Social Security programs
Budget, Finance, and Management	Office of Budget	Plans, develops, and executes the SSA budget, including for the disability process

Source: GAO analysis of the organizational structure of the Social Security Administration.

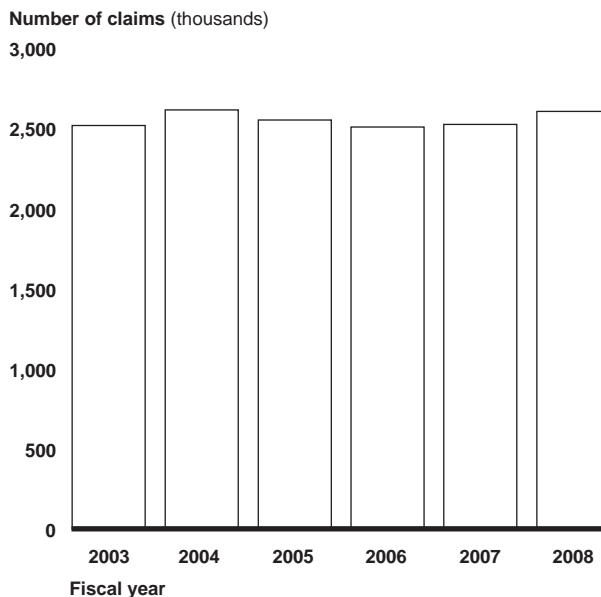
Individuals receiving disability benefits periodically undergo continuing disability reviews (CDR) to determine if they remain eligible for benefits. SSA generally determines when beneficiaries will undergo CDRs—called medical CDRs—based on their potential for medical improvement. However, in the case of any individual determined to be disabled, the law

generally requires that CDRs be performed for the purposes of continuing eligibility at least once every 3 years.¹⁰ In addition, SSA field offices and program service centers conduct other CDRs—called work CDRs—which are reviews of beneficiaries’ earnings and work activities to determine whether they remain financially eligible to receive benefits. SSA is also generally required to conduct CDRs at least once every 3 years for children receiving Supplemental Security Income benefits and has established criteria for others receiving these benefits.

SSA Disability Workloads

Over the past several fiscal years, receipts of initial disability claims at state DDS offices fluctuated but also increased in each of the last 2 fiscal years. In fiscal year 2008, DDS offices received more than 2,600,000 claims, an increase of almost 4 percent over fiscal year 2006. (See fig. 2.)

Figure 2: DDS Initial Disability Claims Receipts, Fiscal Years 2003 through 2008

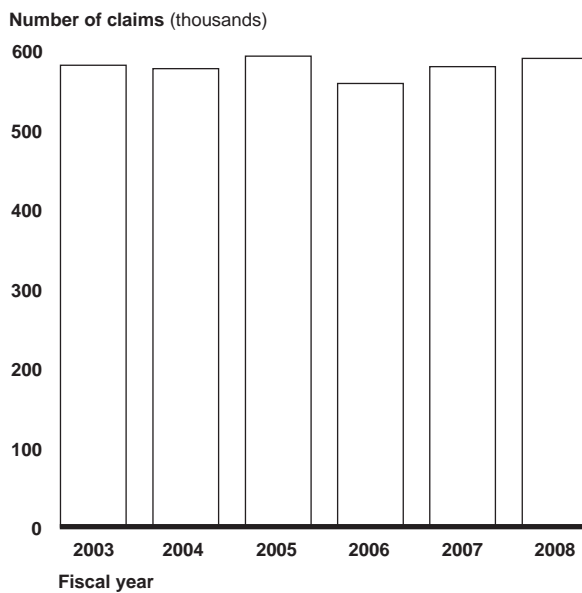


Source: SSA.

¹⁰ 42 U.S.C. § 421(i)(1) and 20 C.F.R. § 416.990 (2009).

Similarly, receipts of claims at the subsequent hearings level also fluctuated over time but increased in each of the last 2 fiscal years.¹¹ Hearing offices received nearly 590,000 claims in fiscal year 2008, an increase of almost 6 percent over fiscal year 2006. (See fig. 3.)

Figure 3: Hearings-Level Receipts, Fiscal Years 2003 through 2008



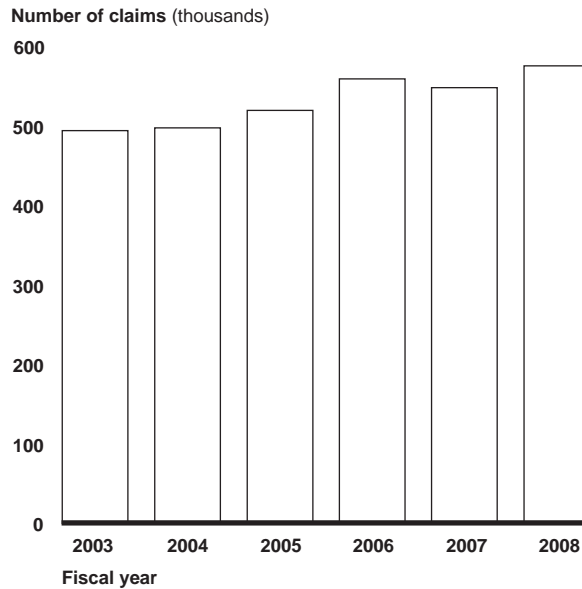
Source: SSA.

Note: While we were able to assess the reliability of these data for fiscal years 2005 through 2008, we were unable to assess their reliability for fiscal years 2003 and 2004 because they are archived in systems that SSA no longer uses to input and house hearings-level receipt data. SSA officials told us that there is no basic difference in the way they calculated these data in fiscal years 2003 through 2004 and 2005 through 2008, but we were unable to validate them. See appendix I for more information about our data reliability efforts.

The total number of dispositions made on claims at the hearings level, which includes both decisions and dismissals, generally increased in the last 6 fiscal years, resulting in an overall increase of more than 16 percent—from more than 490,000 in fiscal year 2003 to more than 575,000 in fiscal year 2008. (See fig. 4.)

¹¹Hearings-level receipts include, among other things, requests for hearings resulting from claims denied by DDS offices, as well as remands to the hearings level, or claims that are sent back for additional action from the Appeals Council and federal courts.

Figure 4: Hearings-Level Dispositions, Fiscal Years 2003 through 2008



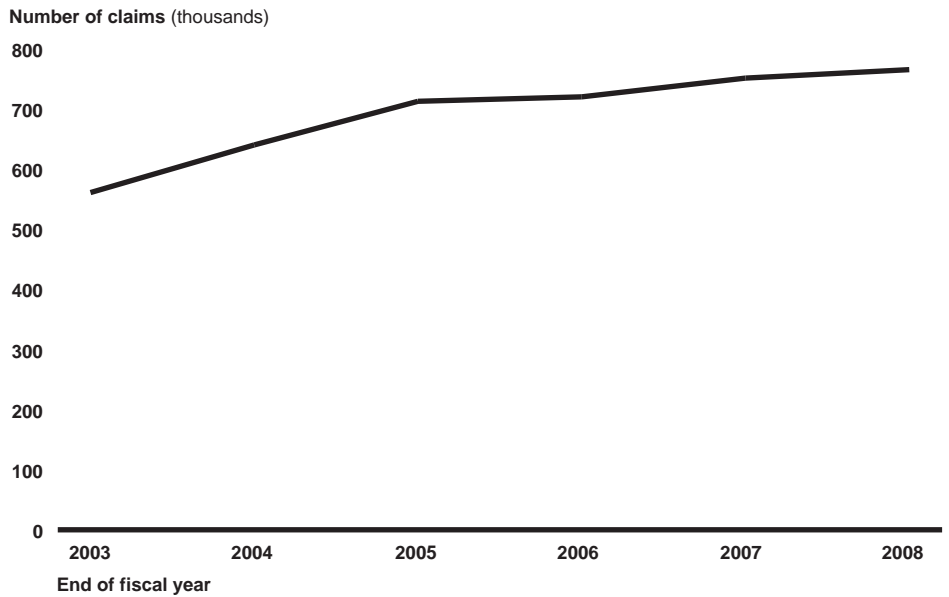
Source: SSA.

Note: While we were able to assess the reliability of these data for fiscal years 2005 through 2008, we were unable to assess their reliability for fiscal years 2003 and 2004 because they are archived in systems that SSA no longer uses to input and house hearings-level disposition data. SSA officials told us that there is no basic difference in the way they calculated these data in fiscal years 2003 through 2004 and 2005 through 2008, but we were unable to validate them. See appendix I for more information about our data reliability efforts.

SSA measures its hearings-level performance in terms of the average time it takes to issue a decision (or average processing time) and the number of claims awaiting decisions (total hearings-level pending). Average processing time has increased in recent years from almost 350 days in fiscal year 2003 to over 510 days in fiscal year 2008.¹² In addition, total hearings-level claims pending increased from over 550,000 in fiscal year 2003 to over 760,000 in fiscal year 2008. (See fig. 5.)

¹²While we were able to assess the reliability of these data for fiscal years 2005 through 2008, we were unable to assess their reliability for fiscal years 2003 and 2004 because they are archived in systems that SSA no longer uses to input and house hearings-level average processing time data. SSA officials told us that there is no basic difference in the way they calculated these data in fiscal years 2003 through 2004 and 2005 through 2008, but we were not able to validate them. See appendix I for more information about our data reliability efforts.

Figure 5: Hearings-Level Pending Claims, Fiscal Years 2003 through 2008

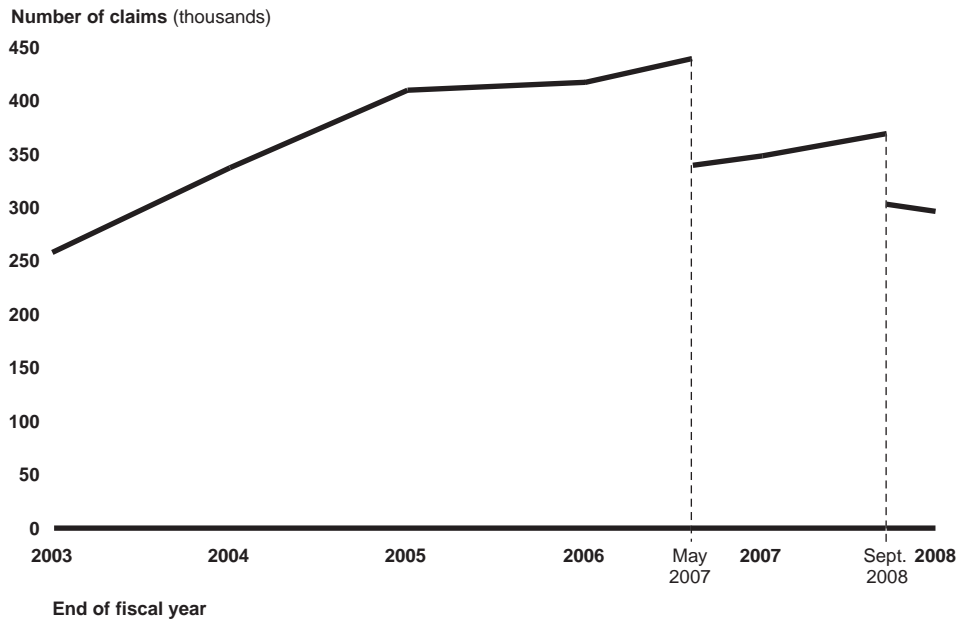


Source: SSA.

Note: While we were able to assess the reliability of these data for fiscal years 2005 through 2008, we were unable to assess their reliability for fiscal years 2003 and 2004 because they are archived in systems that SSA no longer uses to input and house hearings-level pending data. SSA officials told us that there is no basic difference in the way they calculated these data in fiscal years 2003 through 2004 and 2005 through 2008, but we were unable to validate them. See appendix I for more information about our data reliability efforts.

Despite increases in total hearings-level claims pending, SSA data indicate that the hearings-level backlog for fiscal year 2006 through fiscal year 2008 decreased. In order to calculate its hearings-level backlog, SSA defines an optimal pending number—the number of claims SSA considers optimal for work to continually move through the hearings-level process—and subtracts that number from total hearings-level pending. SSA has revised its optimal pending number twice since fiscal year 2006, in turn reducing the number of claims SSA considered backlogged each time. (See fig. 6.)

Figure 6: Hearings-Level Backlogged Claims, Fiscal Years 2003 through 2008



Source: GAO analysis of SSA data.

Note: While we were able to assess the reliability of these data for fiscal years 2005 through 2008, we were unable to assess their reliability for fiscal years 2003 and 2004 because they are archived in systems that SSA no longer uses to input and house hearings-level pending data. SSA officials told us that there is no basic difference in the way they calculated these data in fiscal years 2003 through 2004 and 2005 through 2008, but we were unable to validate them. See appendix I for more information about our data reliability efforts.

From fiscal years 1999 to 2006, SSA defined its optimal pending number as 300,000 claims, and only those undecided claims that exceeded 300,000 were considered to be backlogged. At the end of fiscal year 2006, SSA had more than 715,000 total pending claims at the hearings level. Thus, we reported in 2007 that SSA had a backlog of over 415,000 claims. However, in May 2007 SSA reported a new definition for its optimal pending number—400,000—which it identified as the ideal number of outstanding claims based on the number of ALJs on board. As a result, the backlog was, in essence, adjusted downward to just over 345,000 claims, while total pending claims increased to more than 745,000 claims. In fiscal year 2008, SSA again redefined its optimal pending number to factor in the assumption of an optimal average processing time of 270 days.¹³ On the

¹³Social Security Administration, *Strategic Plan: Fiscal Years 2008 through 2013* (September 2008).

basis of the revised criteria, SSA defined its new optimal pending number as 466,000 claims. Thus, fewer than 300,000 hearing claims were reported as backlogged at the end of fiscal year 2008, while total pending claims increased to more than 760,000 claims.¹⁴ See appendix I for our assessment of SSA's definition of optimal pending.

SSA's Efforts to Reduce Disability Backlogs

In the last decade, SSA undertook a number of initiatives to improve the disability process and reduce or eliminate its backlogs. One significant initiative enabled SSA to convert its paper-based disability claims process to one that is electronic. SSA also introduced two other significant efforts designed to address the backlogs, including the Hearings Process Improvement (HPI) initiative in 2000 and the Disability Service Improvement (DSI) initiative in 2006. HPI was aimed at reducing the number of Appeals Council receipts by improving claims review at the hearings level, and DSI was a comprehensive plan to improve all phases of the disability claims process. There were some positive outcomes from these efforts, such as a DSI initiative that utilized a computer model to identify claims on which SSA could render a decision within 20 days. However, both of these efforts faltered for a variety of reasons, including poor execution, which slowed claims processing and resulted in several aspects being suspended within a few years.

We have issued several reports on SSA's disability program challenges. For example, in July 1996 we noted that increases in hearings-level backlogs and processing times were the result of both a surge in hearings-level receipts and SSA's inattention to several long-standing problems, including multiple levels of claims development and decision making, fragmented program accountability, and decisional disparities between state agencies and hearings-level adjudicators.¹⁵ Similarly, in December 2007 we identified several factors that contributed to disability backlogs, including a more than 20 percent increase in disability applications in the past decade, substantial turnover and losses in personnel throughout the disability process, and SSA management weaknesses, as evidenced by poor planning and implementation of prior initiatives intended to remedy

¹⁴SSA provided detailed rationales for changing its definition of the optimal number of pending claims in May 2007 and fiscal year 2008. However, we did not test the validity of SSA's new definitions of the optimal number of pending claims.

¹⁵GAO, *Social Security Disability: Backlog Reduction Efforts Underway; Significant Challenges Remain*, GAO/HEHS-96-87 (Washington, D.C.: July 11, 1996).

disability backlogs. We recommended that SSA fully monitor backlogs and better execute and evaluate initiatives to address them. SSA partially agreed with our recommendations and believed that it was taking steps to better manage disability backlogs.¹⁶ We also reported on the need to modernize the disability system, citing concerns that SSA's disability programs use outmoded criteria for determining program eligibility that do not fully reflect advances in medicine and technology or changes in the labor market.¹⁷ We suggested that Congress may wish to consider authorizing an entity consisting of appropriate federal leaders to integrate services and support to persons with disabilities. We also recommended that SSA use its annual performance reports to help ensure that it places greater priority on updating its disability criteria and that the agency study how advances in medicine and technology and changes in the labor market could affect program eligibility criteria and benefit packages. SSA agreed with our recommendations and stated it is taking steps or already has taken steps to address these issues.

In May 2007, SSA began to implement its current Plan, which includes 38 initiatives organized under four approaches aimed at eliminating the hearings-level backlog by 2013 and preventing its recurrence. (See table 2.) A full list of Plan initiatives and a more detailed description of their status can be found in appendix III. In response to the changing economic environment, the agency also developed a draft plan update in May 2009 to document revisions to various initiatives and how it plans to implement them going forward, including utilizing additional Recovery Act and budgetary resources.

¹⁶GAO, *Social Security Disability: Better Planning, Management, and Evaluation Could Help Address Backlogs*, [GAO-08-40](#) (Washington, D.C.: Dec. 7, 2007).

¹⁷See GAO, *Federal Disability Programs: More Strategic Coordination Could Help Overcome Challenges to Needed Transformation*, [GAO-08-635](#) (Washington, D.C.: May 20, 2008), and *SSA and VA Disability Programs: Re-Examination of Disability Criteria Needed to Help Ensure Program Integrity*, [GAO-02-597](#) (Washington, D.C.: Aug. 9, 2002).

Table 2: The Plan's Approaches and Examples of Initiatives

Plan approach	Examples of initiatives
1. Compassionate allowances	<ul style="list-style-type: none">• Use processes, such as Quick Disability Determinations, to screen claims for approval at the initial claims level• Update medical listings and definition of disability categories for the initial claims level
2. Improve hearing office procedures	<ul style="list-style-type: none">• Reduce aged claims at the hearings level by working on claims that have been in the hearings process the longest• Allow attorney advisors to issue fully favorable decisions at the hearings level without requiring direct ALJ involvement (Attorney Advisor Program)• Hire additional ALJs and support staff for the hearings level
3. Increase adjudicatory capacity	<ul style="list-style-type: none">• Improve ALJ productivity to 500 to 700 dispositions per year• Screen potentially favorable claims at the hearings level and return them to the DDS for another review and possible favorable determination• Open a centralized National Hearings Center to handle electronic files at the hearings level and conduct only video hearings
4. Increase efficiency with automation and improved business processes	<ul style="list-style-type: none">• Provide additional videoconferencing equipment to conduct hearings• Implement electronic file assembly (ePulling) for the hearings level to help identify duplicates, classify documents by type of evidence, and sequentially number pages• Use electronic tools to expand reviews of reconsideration denials

Source: GAO analysis of SSA's Plan.

SSA's Plan Should Help Reduce the Hearings-Level Backlog, but whether SSA Does So within Its Projected Time Frame Depends on SSA's Ability to Achieve Its Key Goals

Some Plan initiatives have produced positive results that should help SSA reduce its hearings-level backlog, but SSA's ability to eliminate the backlog by 2013 depends heavily on achieving the greater average ALJ productivity it assumes. Other factors, such as ALJ hiring and availability, will also be important, as well as other aspects, such as the number of new requests for hearings.

Some Plan Initiatives Have Produced Results That Should Help Reduce the Hearings-Level Backlog

SSA has implemented some Plan initiatives that have reduced hearings-level receipts and increased hearings-level dispositions and, therefore, should help eliminate the backlog. For example, the Appeals Council initiative, which was implemented in July 2007, has reduced the number of hearing office receipts. Under this initiative, Appeals Council staff correct technical deficiencies in written hearings-level decisions, where possible, instead of returning claims to hearing offices for corrections. Partly as a result of this initiative, the Appeals Council returned about 4,500 fewer claims to ALJs in fiscal year 2008 than in fiscal year 2007.

The Informal Remand initiative, which was implemented in fiscal year 2007, has also increased hearings-level dispositions. Under this initiative, claims that were previously denied by DDS offices are screened for characteristics that make them good candidates for a favorable determination. Typically, these are claims in which the claimants' symptoms have worsened, or the claimants have provided additional medical evidence since the claims were originally denied. These claims are returned to state DDS offices where staff take a second look at them and decide if a fully favorable determination can be made. Since implementation of this initiative, DDS staff have reversed over 25,000 previous DDS denials, allowing hearing office staff to dismiss the related requests for hearings and remove them from hearings-level pending. Because of this success, SSA officials told us that they plan to continue this initiative through fiscal year 2013. However, the officials mentioned that if DDS workloads prevent their continued participation in this initiative, they plan to increase the scale of another similar initiative that they expect will produce similar results.

SSA also implemented two other initiatives in fiscal year 2007 that increased or may help increase hearings-level dispositions. In November 2007, SSA reestablished the Attorney Advisor Program, which helped increase hearings-level dispositions in fiscal year 2008.¹⁸ This initiative, which produced 24,575 decisions in fiscal year 2008, provides authority for certain attorney advisors in hearing offices to issue fully favorable

¹⁸73 Fed. Reg 11,349 (Mar. 3, 2008). SSA had previously discontinued this program in April 2001.

decisions on certain claims without a hearing before an ALJ.¹⁹ Because of its success, SSA plans to continue this initiative through fiscal year 2013. SSA also implemented the Deputy Commissioner of Operations (DCO) Overtime initiative in June 2007, which likely helped increase hearings-level dispositions in fiscal years 2007 and 2008. For this initiative, some DCO employees worked overtime to provide critical support to hearing office staff in preparing claims for ALJ hearings, such as by photocopying, preparing CDs for claimant representatives, processing paper mail, and filing.

In addition to the initiatives that have already increased or will likely increase hearings-level dispositions, SSA's initiative to hire additional ALJs should increase hearing office capacity to make future claim dispositions. In fiscal year 2008, SSA hired 190 new ALJs for its ALJ corps, which had declined to about 1,060 on-duty ALJs at the end of fiscal year 2007.²⁰ The additional 190 ALJs, hired during the last 6 months of fiscal year 2008, did not significantly contribute to increased dispositions in that year, primarily because they required training and experience. However, once trained, they will contribute to increased hearings-level productivity in future years. For example, if the ALJs hired in fiscal year 2008 ultimately produce dispositions at the same average rate as experienced ALJs, they will likely produce more than 50,000 additional dispositions each fiscal year going forward. In addition, SSA officials plan to hire enough ALJs to maintain a cadre of about 1,450 ALJs by fiscal year 2011 using SSA's fiscal year 2009 and 2010 appropriations and some of the funding it recently received under the Recovery Act.

¹⁹Attorney advisors include Senior Attorneys, Hearing Office Directors, Group Supervisors, and attorneys in Regional Offices at the GS-13 level or above. In general, the Attorney Advisor Program decisions helped to increase total hearings-level dispositions. However, it did not provide a one-for-one increase in hearings-level dispositions in fiscal year 2008 because some of the decisions would have been made by ALJs in that fiscal year if the program had not been reestablished, although we could not determine how many.

²⁰Even though SSA hired 190 ALJs during fiscal year 2008, the number of on-duty ALJs increased by only 107 during fiscal year 2008 because of ALJ attrition.

SSA's Success in Eliminating the Hearings-Level Backlog by 2013 Depends on Its Ability to Achieve Its Key Workforce and Performance Goals

The likelihood that SSA will eliminate the hearings-level backlog by its target date depends on the extent to which SSA's actual workforce and performance levels reflect the assumptions it made for ALJ hiring, availability, and productivity. Using a model, SSA officials estimate that it has about a 78 percent chance of eliminating the backlog, that is, reducing the number of hearings-level pending claims below its established optimal pending number of 466,000 claims by fiscal year 2013.²¹ Using a similar model and SSA's workforce and performance assumptions, we also estimated a similar likelihood, that is, a 77 percent chance that SSA will eliminate its backlog by its target date. (See app. II for more information on our modeling methodology and assumptions.) For these estimations, both we and SSA included activities funded by additional Recovery Act and fiscal year 2009 appropriations, and SSA's increased projections for hearing receipts. SSA plans to use the additional funding, along with the additional \$997 million it requested in its fiscal year 2010 administrative budget request, to hire more than 360 ALJs and 1,500 additional management and support staff in fiscal years 2009 and 2010.

SSA's estimate for the likelihood of eliminating its backlog by the end of fiscal year 2013 assumes it will meet its workforce and performance goals. However, if ALJs issue, on average, fewer decisions than SSA projected and SSA is unable to hire and train the number of ALJs planned and have them available in the expected amount of time, SSA will have a lower chance of eliminating the backlog by its target date. Because SSA's projection was based on its assumptions, we ran a number of simulations to determine the likelihood that SSA would meet its target date if some or all of SSA's assumptions, which reflected what SSA believed it could achieve given its new initiatives and resources, were not realized. In some cases where SSA's recent experience was different than its assumptions, we varied the assumptions in our simulations. Elsewhere, we used SSA's assumptions.²² We varied the following assumptions in our simulations:

Average ALJ productivity. SSA assumes that average ALJ productivity will be at about 570 dispositions per average available ALJ in fiscal years 2009

²¹To estimate its likelihood of eliminating the backlog by its target date, SSA developed a model that is used in concert with a forecasting and risk analysis software program called Crystal Ball. The Crystal Ball program produced results by running thousands of simulation trials in which the program randomly selected values for workload, performance, and staffing inputs from ranges that SSA prespecified.

²²Recent experience is based on fiscal year 2008 through April 2009.

through 2013.²³ Our analysis of recent performance data shows that ALJs have not produced at 570 dispositions per average available ALJ in the past 5 years. Most recent experience shows that each average available ALJ produced at an annualized rate of about 546 dispositions in fiscal year 2009 through April. However, since SSA plans to hire additional staff with funding provided through the Recovery Act, its fiscal year 2009 appropriation, and its fiscal year 2010 budget request, we estimated that this number could be adjusted upward to 560 dispositions per average available ALJ to reflect the potential effect of the increased support staff on ALJ performance.

Average number of on-duty ALJs. SSA's goal is to hire enough ALJs to reach a cadre of about 1,450 in fiscal year 2011, but SSA officials told us that the average number of on-duty ALJs could be slightly less because of annual ALJ attrition and timing constraints in the hiring process. Thus, SSA assumes that it will be able to hire ALJs to reach an average of 1,442 on-duty ALJs in fiscal year 2011 and maintain that level through 2013. Our assessment of SSA's staffing data shows that in fiscal year 2008 the average number of on-duty ALJs was 1 percent lower than SSA expected, and in fiscal year 2009 through April, SSA's average number of on-duty ALJs has been 2 percent below SSA's expectation for the year. Thus, we used values for this assumption that ranged from 98 percent of SSA's annual expectation to 100 percent of SSA's expectation.

Average ALJ availability. Generally, SSA assumes that experienced ALJs are available about 93 percent of the time, but for years when SSA hires many new ALJs, it assumes that average ALJ availability will be lower because the new ALJs need to be trained and gain experience before they start to produce at the level of an experienced ALJ. In fact, because SSA plans to hire ALJs in fiscal years 2009 through 2013 to reach and maintain a cadre of about 1,450 ALJs, SSA assumes lower average ALJ availability percentages in each year through fiscal year 2013—about 90 percent of the time in fiscal years 2009 and 2010 and between 91 and 92 percent in each fiscal year from 2011 to 2013. Our analysis of SSA staffing data shows that average ALJ availability, as reported by hearing offices, was 88 percent in fiscal year 2008, when SSA hired 190 additional ALJs, and 91 percent in fiscal year 2009 through April. Because SSA plans to hire over 360

²³SSA agreed that 570 with a plus or minus 3 percent variation is a fair representation of the productivity it assumed in its model. See appendix II for more explanation about productivity as used in SSA's model.

additional ALJs in fiscal years 2009 and 2010, we used values for this assumption that ranged from 88 percent to 91 percent (actual reported values). However, consistent with SSA's expectations, we used average ALJ availability values for fiscal years 2011 through 2013 ranging from 91 to 92 percent.

For the following assumptions we used values similar to those SSA used in its model:

Hearing receipts. We based our assumptions for hearings-level receipts entirely on SSA's assumptions, including SSA's subcategories and related ranges to vary this assumption to obtain our results.

Informal remands reversed. We used SSA's assumptions, since this initiative was new in fiscal year 2007 and little recent data existed. SSA used point estimates of 8,500 informal remands reversed for each year and did not attribute any ranges to this assumption.

Attorney Advisor Program dispositions. Since this initiative was reestablished in fiscal year 2008 and thus few recent data were available, we used SSA's assumptions of a most likely value of 32,300, and a range of plus or minus 1 percent—as SSA does—for this disposition type.

To make our estimates, we developed a model we used in concert with a commercially available risk analysis software, called Crystal Ball, and used the assumptions we described above. Based on this model, we estimated that the likelihood of SSA eliminating its hearing-level backlog by its target date ranges from about 77 percent to about 14 percent, depending on the extent to which it achieves its workforce and performance goals.

We found that

- If SSA achieves the ALJ hiring, availability, and productivity levels it assumes, we estimate there is about a 77 percent likelihood of eliminating the hearings-level backlog by 2013.
- If SSA achieves the ALJ productivity levels it assumes but its average ALJ hiring and availability remain more consistent with SSA's recent experience, we estimate there is about a 53 percent chance of eliminating the hearings-level backlog by 2013.
- If SSA achieves the ALJ hiring and availability levels it assumes, but its rate of average ALJ productivity remains more consistent with recent

experience—though increased because of additional support staff—we estimate that SSA has about a 34 percent chance of eliminating the hearings-level backlog by 2013.

- If SSA does not achieve any of the levels of ALJ hiring, availability, or productivity that it assumes, and if its performance is more consistent with SSA’s recent experience but with productivity increased because of additional support staff—we estimate that SSA has about a 14 percent chance of eliminating the hearings-level backlog by 2013.

SSA’s Plan Partially Addresses Five of Six Components of Sound Planning, but Does Not Provide Some Key Management Information

SSA’s Plan includes important elements of the components of sound planning we identified in our previous work, but it does not fully address them, and may not provide some key information to facilitate effective plan management. Although there is no established set of requirements for all plans, components of sound planning are important because they define what organizations seek to accomplish, identify specific activities to obtain desired results, and provide tools to help ensure accountability and mitigate risks. According to SSA officials, they developed the Plan to promptly address the increasing hearings-level backlog and, as a result, implemented it before fully addressing many of the planning components. Although SSA’s Plan addresses some important elements of sound planning, such as clearly stating the Plan’s purpose of eliminating the hearings backlog and outlining initiatives to help SSA achieve this, it only partially addresses five of six components and does not address one. (See table 3.)

Table 3: Extent to Which SSA’s Plan Addresses Components of Sound Planning

Component	Brief description	SSA’s Plan	Summary of analysis
Purpose, scope, and methodology	Addresses why the Plan was produced, the scope of its coverage, and the process by which it was developed	⊙	The Plan does not detail the process by which it was produced.
Problem definition, causes, and operating environment	Addresses or defines the problem the Plan is directed toward, the causes of those problems, and the current operating environment	⊙	The Plan does not discuss the problems affecting the hearings-level backlog in detail.
Goals, objectives, activities, and performance measures	Addresses what the Plan is trying to achieve and how it will achieve those results, as well as the priorities, milestones, and performance measures to monitor and gauge results	⊙	The Plan does not identify performance measures and goals for about half of the initiatives.
Resources, investments, and risks	Addresses what the Plan will cost, the sources and types of resources and investments needed, and where resources and investments should be targeted while assessing and managing risks	⊙	The Plan does not include cost estimates or identify implementation risks.

Component	Brief description	SSA's Plan	Summary of analysis
Roles, responsibilities, and coordination	Addresses who will be implementing the Plan, what their roles will be compared with those of others, and mechanisms for them to coordinate their efforts	⊙	The Plan mentions some offices involved in Plan implementation, but does not discuss roles and responsibilities or mechanisms for coordination.
Integration among and with other entities	Addresses how the Plan relates to other agency goals, objectives, and activities—and to subordinate levels of government	○	The Plan does not discuss how it relates to other agency efforts or priorities.

- Addresses
- ⊙ Partially addresses
- Does not address

Source: GAO analysis.

Note: The six components can be subdivided into 27 separate elements for more detailed assessment. If the Plan addressed all of the elements related to a component, we determined that it fully addressed this component. If the Plan addressed at least 1 but not all of the elements related to a component, we determined that it partially addressed this component. If the Plan addressed none of the elements related to a component, we determined that it did not address this component.

During our review, SSA largely clarified to us how its Plan addresses four of the components of sound planning, even though they are not specifically articulated in the Plan. For example, for the **purpose, scope, and methodology component**, the Plan does not detail the process by which it was produced, such as what analyses were used to develop the initiatives and who was involved. SSA officials later told us that they developed the Plan based on initiatives that had worked in the past and in consultation with management from various SSA offices. For the **problem definition, causes, and operating environment component**, the Plan identifies several problems driving the hearings-level backlog, including large numbers of hearings-level receipts, insufficient resources and staff, and some hearings-level inefficiencies, but does not discuss the problems in detail or clarify how the initiatives will address these problems. However, SSA officials subsequently discussed the problems affecting the hearings-level backlog with us and explained how the Plan initiatives intend to address them. We found that the problems discussed were consistent with those cited in prior GAO work, by SSA stakeholders involved in the disability process, and by staff in the seven hearing offices we visited. These staff stated that one problem causing the hearing office backlog was the lack of staff needed to prepare claims for ALJ review. To address this issue, SSA officials explained that the Plan includes initiatives to increase overtime to prepare claims and automate some claim preparation functions. As noted earlier, SSA recently stated it plans to significantly increase staff over fiscal year 2008 levels. For the **roles, responsibilities, and coordination component**, the Plan does not

discuss roles and responsibilities for implementing the Plan and mechanisms for coordination. However, SSA officials later clarified that ODAR is the designated lead for overseeing overall Plan implementation; and responsibilities for implementing the initiatives are divided among it and several other SSA offices. Finally, regarding the **integration among and with other entities component**, the Plan does not include information on how it relates to other SSA offices and agency priorities. However, SSA's strategic plan for 2008 through 2013 specifically notes that Plan implementation is one of the agency's top priorities. In addition, SSA offices involved with the Plan also participated in a multi-office effort, beginning in August 2007, to examine ways to improve consistency in claims processing across the disability process, such as at the initial and hearings levels.

SSA did not fully clarify how it addresses the two remaining components of sound planning: (1) **goals, objectives, activities, and performance measures** and (2) **resources, investments, and risks**. Within those components, SSA's Plan specifically did not address three key elements: performance goals and measures, resources and costs, and potential implementation risks.

- **Performance measures.** Although SSA's Plan establishes its overall goal of eliminating the hearings-level backlog by 2013, SSA did not develop performance measures and goals for about half of the 38 initiatives. In addition to defining goals or desired outcomes, performance measures are important because they tell organizations how well they are achieving their goals and enable them to assess accomplishments, make decisions, realign processes, and assign accountability.²⁴ While SSA tracks its progress in implementing initiatives, it has not established the specific expected outcomes that each initiative is expected to achieve with respect to eliminating the hearings-level backlog. For example, the Plan includes an initiative to provide additional videoconferencing equipment to conduct hearings, but it does not specify how many additional hearings are expected to be conducted as a result. While SSA's fiscal year 2008 Plan update report notes that the number of hearings conducted through videoconferencing has increased and that SSA installed 145 new videoconferencing units, the report does not describe the impact, if any, the additional videoconferencing units have on the hearings-level backlog. In addition, the Plan includes an initiative to establish a standardized electronic business process to improve claim-processing time, but does

²⁴[GAO/GGD-96-118](#).

not specify performance goals, such as how much time this effort is intended to save. SSA's fiscal year 2008 Plan update report states that the agency is piloting this new process, but does not indicate how SSA will measure the initiative's impact on processing time. In discussing our concerns, SSA officials stated that they are developing a system that will provide for developing formal performance measures and goals for the initiatives. Moreover, SSA officials provided examples of formal performance goals for four Plan initiatives that it developed as part of this system and stated that they plan to release performance information on a total of seven initiatives in the fall of 2009.

- **Resources and costs.** SSA did not develop resource and cost estimates for many of the 38 initiatives. Such estimates are necessary for organizations to support decisions about whether to fund one program over another, develop annual budget requests, and evaluate resource requirements at key decision points.²⁵ Moreover, a realistic estimate of program costs makes for effective resource allocation, which can ultimately increase a program's probability of success. SSA developed cost estimates for its electronic and automation initiatives through its annual process for approving specific systems projects. However, SSA officials stated that they did not estimate costs for the entire Plan or their other initiatives because they determine resource needs at an office level—rather than specifically for the Plan—and allocate resources to these offices according to appropriated funds and agency priorities. In addition, SSA officials stated that cost estimates for specific initiatives would not be accurate, because they overlap with the normal costs of processing a claim, such as staffing and operational costs. They also stated that cost estimates would not include potential savings the initiatives would bring and that these could not be determined by initiative because multiple initiatives may have contributed to the savings. While we acknowledge these challenges, we believe it is possible to estimate the costs of implementing the initiatives. For example, the Plan did not include cost estimates for an initiative to open and operate a National Hearing Center to hear claims from backlogged hearing offices through videoconferencing or its potential cost-effectiveness compared with that of a traditional hearing office. At our request, SSA subsequently developed staffing and operational cost estimates for this initiative, but SSA officials stated that they do not have plans to develop cost estimates for other initiatives, including those it considers critical to eliminating the hearings-level backlog, which are potentially more costly. For example, SSA did not

²⁵GAO, *GAO Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs*, GAO-09-3SP (Washington, D.C.: March 2009).

estimate the costs of hiring additional ALJs. Although SSA recently stated how much of its Recovery Act funds would be spent on hiring some ALJs and support staff and video equipment, SSA has not estimated other costs associated with this initiative, such as hearing office space.

SSA stated that it had developed cost estimates associated with implementing all major aspects of the Plan, but we found that it only provided time savings estimates for a few initiatives and did not provide cost estimate information for many initiatives. For example, SSA stated that remanding cases to DDS offices to be decided by DDS staff provides a savings of 15 minutes per case to ODAR, but SSA did not provide the cost of DDS overtime needed to perform this task.

- **Risks.** SSA's Plan did not identify potential implementation risks, such as factors that could hinder its success, or methods to assess and manage these risks. Although risk management cannot eliminate all risks, it provides tools for making informed choices about how to use available resources effectively and for monitoring the effect of those choices.²⁶ It involves assessing vulnerabilities and consequences and establishing a feedback loop that continually incorporates new information as organizations move forward with implementation. SSA officials stated that they discussed risk management prior to Plan implementation, but neither the Plan nor SSA has a formal method to proactively identify risks, monitor their effects, and develop plans to mitigate them. For example, SSA officials originally estimated that a Plan initiative to automate file assembly to prepare claims for ALJ review—called ePulling—would save 90 minutes of support staff time per claim and reduce the need for some support staff. However, SSA did not consider risks or alternate implementation strategies, such as what SSA would do if ePulling did not work as expected. SSA officials stated that the ePulling initiative has had a negligible effect on time savings, and the Draft Appomattox Plan noted that not achieving the anticipated results from electronic initiatives like ePulling is one of several factors that has significantly compromised agency efforts to provide disability-related services. SSA officials stated they completed risk analyses for three initiatives in early fiscal year 2008 and, as part of their effort to develop a formal risk analysis process, they plan to use the system they are creating to develop risk analysis information for a total of eight initiatives for release in the fall of 2009. They stated that the agency has generally performed risk analyses

²⁶GAO, *Homeland Security: Applying Risk Management Principles to Guide Federal Investments*, [GAO-07-386T](#) (Washington, D.C.: Feb. 7, 2007).

informally as it rolled out initiatives and they had developed plans for mitigation strategies if the risks identified materialized. However, SSA did not provide documentation of this effort, except for the senior attorney initiative, and therefore we were unable to assess the extent to which these analyses were performed.

The Plan Could Have Unintended Effects on SSA Operations, but SSA Lacks a Systematic Approach to Identify and Address Them

SSA's implementation of the Plan could have unintended effects on various aspects of hearings-level performance, but SSA does not have a systematic approach to identify and address them. For example, staff in all seven hearing offices we visited stated that SSA's push to increase productivity by encouraging each ALJ to issue between 500 and 700 dispositions annually could reduce the quality of ALJ decisions, and ALJs in two of these offices also stated that it could increase the potential for ALJs and decision writers to make technical errors when preparing decisions.²⁷ Such an increase in errors could ultimately cause the Appeals Council and federal courts to return more claims to the hearings level for correction, although SSA has been taking steps that could help address this concern. For example, SSA developed a tool to help draft decisions that has reduced such errors. In addition, SSA's Plan includes an initiative to develop a quality assurance program to review selected prepared claims and decision drafts to identify problems, such as technical errors. According to SSA, it will begin this quality assurance program in early fiscal year 2010. SSA's Draft Appomattox Plan identifies another initiative intended to identify errors in cases, whereby SSA's Appeals Council will review cases favorable to the claimant. SSA plans to begin this initiative in fiscal year 2010. Beyond technical errors, many ALJs and staff members in hearing offices we visited told us that the current push for greater productivity could increase the potential for decisional errors. Also, officials representing the Association of Administrative Law Judges we spoke with stated that asking judges to do up to 700 cases per year is unrealistic and cannot be done in a high-quality manner. In addition, we have reported concerns regarding ALJ decisional accuracy for years. In 1996, we reported that pressure to meet the goals set out in SSA's short-term plan to reduce the hearings-level backlog could put the agency at risk

²⁷In February 2008, SSA's OIG concluded that federal law does not prevent SSA from establishing a performance accountability process wherein ALJs are held to reasonable production goals, as long as those goals do not infringe on ALJs' qualified decisional independence. SSA' Office of the Inspector General, *Administrative Law Judges' Caseload Performance*, A-07-07-17072 (February 6, 2008). SSA officials told us that they considered average ALJ production in developing the current 500-700 case per ALJ goal.

of incorrectly allowing claims, which could increase overall program costs for SSA and taxpayers.²⁸ Further, in 2003, we recommended that SSA take action to improve ALJ quality assurance reviews.²⁹ However, SSA's Plan does not include a method for systematically reviewing the accuracy of decisions. SSA officials stated that the agency currently takes two actions to monitor ALJ decisions; however, neither of these efforts is intended to systematically assess the accuracy and quality of ALJ decisions. First, SSA reviews data on the number of hearing dispositions that ALJs issue in order to identify ALJs making unusually low or high numbers of dispositions and takes actions as necessary. However, these reviews are not documented. Second, SSA monitors the percentages of favorable and unfavorable decisions ALJs make in order to determine if these percentages change as ALJs increase productivity. SSA officials stated that in 2008 they reviewed the quality of the work of several of the highest producing ALJs and found no problems with the quality. They stated that they do not believe that asking for a minimum of 500 dispositions per year per ALJ would lead to concerns about the quality of dispositions.

Some of the Plan's initiatives could also significantly affect key hearing office workloads. For example, SSA's efforts to increase ALJ productivity and hire additional ALJs have increased the pressure on hearing office staff to prepare more claims for ALJ review. Hearing office staff in all seven hearing offices we visited stated that more support staff are needed, particularly in light of normal attrition and the increased number of ALJs on board as a result of the Plan. Staff in four hearing offices we visited also told us that the increased pressure to prepare more claims has reduced morale. While the Plan notes that hiring more staff is essential to reducing the hearings-level backlog, it did not specify how many more staff are actually needed. Although SSA has not yet determined how many more staff are needed, in March 2009, SSA's Commissioner said that the agency plans to hire the staff necessary to increase the national average support staff-to-ALJ ratio to 4.5.

SSA's focus on eliminating the hearings-level backlog has also affected the workloads of other SSA offices. For example, SSA officials stated that the increase in ALJ productivity resulted in some increased workloads at the

²⁸ GAO/HEHS-96-87.

²⁹ GAO, *SSA Disability Decision Making: Additional Steps Needed to Ensure Accuracy and Fairness of Decisions at the Hearings Level*, GAO-04-14 (Washington, D.C.: Nov. 12, 2003).

Appeals Council, which is SSA's final administrative appeals level. In fact, SSA recognized in its fiscal year 2008 through 2013 strategic plan that a backlog could occur in the Appeals Council as SSA increases hearings-level dispositions. In addition, the Appeals Council initiative also increased the Appeals Council's workload. As mentioned earlier, in fiscal year 2008 the Appeals Council returned about 4,500 fewer claims to ALJs, partly because of this initiative. However, Appeals Council staff stated that this causes an increase in their workload because correcting claims takes longer than returning them to ALJs. SSA has included in its Draft Appomattox Plan specific information on plans for hiring Appeals Council staff and making electronic improvements, such as system enhancements to improve consistency, reduce errors, and speed case processing. The draft specifies that SSA plans to hire 14 additional Administrative Appeals Judges and 135 attorneys and professional staff in late fiscal year 2009, and a timeline for acquiring space for these staff.

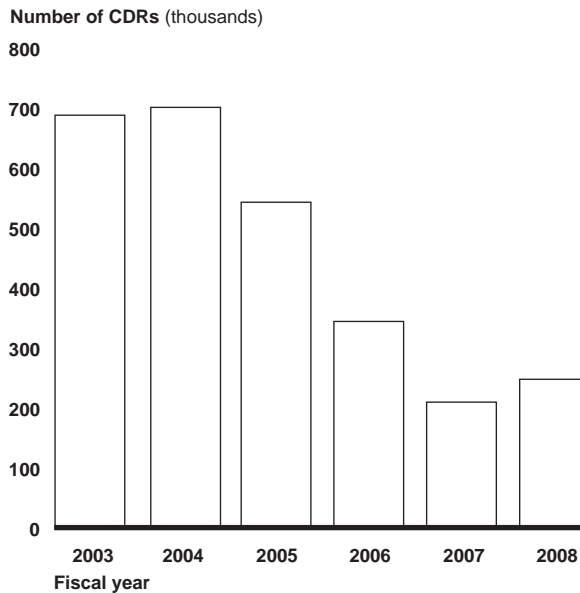
A substantial increase in the number of hearing dispositions could also affect the workloads of field offices and program service centers, both of which are involved in processing payments for approved claims. In April 2008, the Chairman of the Social Security Advisory Board testified that the board was particularly concerned that SSA's focus on eliminating the hearings-level backlog could result in backlogs in the program service center operations. SSA officials responsible for allocating resources and analyzing workloads stated that they do not expect increases in hearings dispositions to contribute significantly to backlogs in field offices and program service centers because hearings dispositions make up only part of field office and program service center workloads. However, SSA officials had not estimated the potential impact on these workloads beyond the next fiscal year if ALJs sustained the planned 20 percent increase in productivity starting in 2010. Staff in some of the field offices and program service centers we contacted told us that a 20 percent increase would likely significantly affect workloads and their ability to manage them. However, these staff had no specific plans regarding how to manage such increases beyond reallocating resources when needed, and the Plan does not outline ways to address this potential workload surge. SSA central office officials who have responsibility for the field offices said that they would deal with a sustained increase in their workload by requesting that more staff be assigned to their offices, and noted that they have made some efforts to help address overall field office workloads, such as increasing the number of Web-based disability applications instead of in-person applications. However, these plans may not provide the immediate help that could be needed if hearings-level dispositions increase suddenly and dramatically. SSA officials told us that a group of

senior management officials from various SSA offices, called the Disability Determination Services Management Forum, recently expanded their work reviewing disability policies to look at broader issues across the entire disability process, including how the Plan affects this process.

In addition, SSA staff we spoke with stated that the agency's focus on implementing its Plan could divert resources from other critical workloads, such as CDRs. CDRs are key program integrity activities designed to ensure that only those eligible continue to receive benefits. CDRs have the potential to yield hundreds of millions of dollars in savings by removing program participants who no longer meet eligibility requirements. We recently reported that certain actions taken after claims are awarded—including CDRs, among other things—are typically delayed or deferred when an office is under stress.³⁰ SSA reported that although it performed nearly 40,000 more CDRs in fiscal year 2008 than the approximately 210,000 performed in fiscal year 2007, the overall number of CDRs conducted annually has generally decreased over time. (See fig. 7.)

³⁰GAO, *Social Security Administration Field Offices: Reduced Workforce Faces Challenges as Baby Boomers Retire*, [GAO-08-737T](#) (Washington, D.C.: May 8, 2008).

Figure 7: Number of CDRs Completed at DDS Offices, Fiscal Years 2003 through 2008



Source: SSA.

Note: We compared CDR data given to us by SSA with data in a complementary SSA database and generally found similar trends in annual totals of CDRs completed at DDS offices between fiscal years 2003 and 2008. However, the annual totals varied slightly in each of the years, and the trend between fiscal years 2007 and 2008 was off by over 8 percent.

SSA reported that it had scaled back the number of CDRs it conducts because of increases in other competing workloads, among other things. SSA officials also reported that in fiscal year 2007, the CDR workload was over 200,000 and was projected to increase by almost 300 percent by fiscal year 2013. SSA officials stated that the agency’s focus on the Plan could not affect the number of CDRs that could be done because funding for CDRs is earmarked for this purpose. In addition, they pointed out that staff in DDS offices—not hearing office staff—conduct CDRs. Finally, they stated that DDS offices did not have the capacity to absorb more staff to do more CDRs than these offices have been assigned, even if more resources were shifted to DDS offices for this purpose. However, officials agreed that this assessment was based on plans for the next budget cycle and that it did not take into account longer-range impacts over the course of the Plan.

Conclusions

SSA has faced long-standing challenges with disability backlogs, especially at the hearings level. SSA's estimate that it likely will eliminate the backlog by 2013 is dependent on achieving higher levels of performance in key areas than recent experience has shown. If performance is less than expected, and more comparable to recent experience, SSA may be less likely to achieve its goal. As a result, it will be important for SSA to monitor its progress toward meeting initiatives that are designed to achieve higher levels of performance. At the same time, SSA will need to monitor risks to ensure that other operations are not adversely affected. SSA has recently taken a number of positive actions such as developing its own modeling capability, which will allow it to routinely check assumptions against actual performance. SSA has developed some performance goals for initiatives, estimated time savings, and plans to develop formal risk analyses. It will be important for SSA to continue these efforts to ensure that it is well positioned to make progress toward its goals, understand the full costs, and mitigate any possible adverse effects on operations.

Recommendations for Executive Action

To help SSA monitor progress and evaluate individual Plan initiatives' effect on the hearings-level backlog, inform its decisions about resource allocations for eliminating this backlog, and minimize adverse effects of the Plan's implementation, we recommend that the Commissioner of the Social Security Administration take the following three actions:

- develop performance goals and measures for initiatives that currently do not have them;
- develop cost estimates for the initiatives SSA considers critical to eliminating the hearings-level backlog in addition to the time savings estimates already developed; and
- move forward with formalizing agency risk assessments associated with the Plan's implementation, including assessing both risks that would hinder the Plan's success and risks that could cause adverse effects or trade-offs related to hearings-level performance and other SSA operations, along with mitigating strategies.

Agency Comments and Our Evaluation

We provided a draft of this report to the Commissioner of the Social Security Administration for review and comment. SSA partially disagreed with our first recommendation on developing performance goals and measures. SSA stated that it has established performance goals and measures for 19 of its 35 initiatives and that it is in the process of developing goals and measures for 2 additional initiatives—the standardized electronic business process and the in-line quality assurance program, but noted that the 14 remaining initiatives are not conducive to a performance goal or measure.³¹ Instead, SSA tracks milestones to ensure these initiatives remain on schedule for implementation. We commend SSA for its efforts to develop performance goals and measures for 21 of its 35 initiatives. However, we believe that it is possible to develop performance measures and goals for some of the remaining 14 initiatives. While tracking milestones for these initiatives provides important information on their status, we believe that performance goals and measures are needed to gauge the success of certain initiatives by comparing outcomes with expected results. For example, while SSA stated that it has milestones for the initiative related to the delivery of additional video hearing equipment, performance goals and measures that specify how many units will be added, and how many additional hearings will be conducted as a result, can help SSA determine the impact additional video hearing equipment has on the hearings-level backlog. In addition, SSA did not develop performance goals and measures for its initiative to improve hearing office management information, although identifying the ultimate improvements desired and how these improvements would affect the hearings-level backlog would allow SSA to better understand whether its efforts met expected results.

SSA disagreed with our second recommendation, on developing costs for initiatives it considers critical to eliminating the backlog, and noted that it conducted a full evaluation of the costs and savings associated with implementing all major aspects of the Plan, which it incorporated into its fiscal year 2009 and 2010 budget estimates. SSA also stated that it has refined cost and savings estimates over time, when possible. However, we believe that it is also important to develop cost estimates for individual Plan initiatives over the entire course of the Plan—through fiscal year 2013—because it would allow SSA to determine which initiatives provide

³¹In our draft report, we listed 38 Plan initiatives; SSA combined 4 initiatives related to compassionate allowances and now refers to the result as fast-tracked initial decisions. SSA has added another initiative, called automated noticing, which will be in planning and analysis in fiscal year 2010. Thus, SSA now has 35 initiatives.

the best return on investment as it moves forward with Plan implementation. Such information is critical to making informed decisions regarding the most effective use of funds to eliminate the backlog.

SSA agreed with our third recommendation to move forward with formalizing risk assessments associated with the Plan's implementation, and said that it is currently developing a management tool, called the Disability Adjudication Reporting and Evaluation System (DARES), that will contain information about the overall "health" of initiatives based upon metrics, scheduling timelines, and risk assessments. SSA further stated that the first release of DARES is scheduled for August 2009, and future DARES releases will continue to address risks and formulate further mitigation strategies. SSA noted that while it is important to proactively identify risks, this activity must be balanced with the urgency to take action to help those who have long waited for a hearing decision.

In its comments SSA agreed that ALJ productivity is critical to the success of its backlog reduction efforts. SSA reiterated that, even with the variability it estimated for ALJ productivity, it believes it has a 78 percent chance of eliminating the backlog by the end of fiscal year 2013 and is on track to meet its ALJ productivity goals. However, SSA agreed that in order to stay on course to reach its 2013 goal, it would have to fully realize its assumptions—particularly its goals for ALJ hiring and estimates about workload receipts—and receive timely, adequate, and sustained funding.

In conclusion, SSA agreed that it needs to take a closer look at the effect that a 20 percent increase in ALJ productivity could have on its operations and stated that it is in the process of doing so. SSA believes that the following steps have improved the processing of the hearings-level disposition workload:

- Electronically identifying and tracking all hearings-level disposition cases. This process, developed in January 2008 in one program service center, is aimed at providing improved customer service by allowing these cases to be worked based on the hearing request date.
- Better managing and tracking hearings-level disposition cases and improving the proficiency and efficiency of staff through the establishment of a centralized group of staff assigned to process these cases. SSA established this group in one program service center in August 2008.

-
- Monitoring hearings-level disposition receipts daily to increase the focus on processing hearings-level disposition cases, including dedicating overtime resources to this effort as needed.
 - Hiring additional staff in the Program Service Centers in anticipation of increasing hearings-level disposition cases.

SSA's written comments are reproduced in appendix IV. SSA also provided technical comments, which were incorporated into the report as appropriate.

We are sending copies of this report to the Commissioner of SSA and others who are interested. The report is also available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-7215 or bertonid@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. Staff members making key contributions to this report are listed in appendix V.



Daniel Bertoni
Director
Education, Workforce,
and Income Security Issues

Appendix I: Objectives, Scope, and Methodology

We were asked to evaluate the Social Security Administration's (SSA) plan for reducing the hearings-level backlog and preventing its recurrence, entitled *Summary of Initiatives to Eliminate the SSA Hearings Backlog* (the Plan). Specifically, we (1) examined the Plan's potential to eliminate the hearings-level backlog, (2) determined the extent to which the Plan included components of sound planning, and (3) identified potential unintended effects of the Plan on hearings-level operations and other aspects of the disability process. To address these objectives, we analyzed SSA workload and performance data at multiple disability process levels for fiscal year 2003 through April 2009, assessed the Plan and the Draft Appomattox Plan using sound planning criteria from prior GAO reports, conducted interviews and site visits with SSA central and field officials and disability-related associations, and reviewed relevant documents from SSA and other organizations. In addition, to address the Plan's potential to eliminate the hearings-level backlog by fiscal year 2013, we documented assumptions that SSA used to make this projection. We examined the reasonableness of these assumptions based on our analysis of SSA's workload and performance data and on interviews with SSA officials. We also used a commercially available forecasting and risk analysis software program to determine SSA's likelihood of eliminating the hearings-level backlog by 2013. For additional information on our projection modeling methodology and assumptions used in this analysis, see appendix II. We conducted this performance audit from May 2008 to September 2009 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Analysis of SSA Workload and Performance Data

We obtained and analyzed historical SSA workload and performance data related to processing Disability Insurance and Supplemental Security Income disability claims and continuing disability review (CDR) decisions, primarily for the Disability Determination Services (DDS) initial and hearings levels of the disability process, including the following:¹

¹Throughout this appendix, when we refer to SSA disability claims, we are referring to claims filed under the Disability Insurance and Supplemental Security Income programs.

DDS initial level. We analyzed nationwide annual totals of DDS initial claims receipts and CDR decisions for the time period from fiscal years 2003 to 2008. In addition, we analyzed nationwide annual totals of informal remands processed and reversed by DDS offices during fiscal years 2007, 2008, and 2009 through April.²

Hearings level. We analyzed hearings-level staffing data in September of each fiscal year, 2003 through 2008 and fiscal year 2009 through April, for the nation. For fiscal years 2003 through 2008, we analyzed annual totals of hearings-level receipts, dispositions, and pending claims for the nation, and we also analyzed dispositions for fiscal year 2009 through April. For fiscal years 2005 through 2008, we analyzed nationwide annual totals of Appeals Council remands to hearing offices and nationwide average hearings-level processing time. In addition, we analyzed the fiscal year 2008 and fiscal year 2009 through April totals of fully favorable decisions made by attorney advisors.³

To calculate the hearings-level backlog at the end of each of fiscal years 2003 through 2008 and fiscal year 2009 through April, we compared SSA's optimal number of pending claims with the actual number of pending claims. If the actual number of pending claims exceeded the optimal number of pending claims, the difference was the backlog. SSA redefined its optimal number of pending claims two times during the period covered by our review: in May 2007 and again in fiscal year 2008. We did not test the validity of SSA's new definitions of its optimal number of pending claims, but SSA provided detailed rationales for the changes.

The workload and performance data we analyzed came from several sources within SSA. SSA said that data for the DDS initial level came from SSA's Disability Operations Data Store (DIODS), which contains data submitted by state DDS agencies. Data for the hearings level came from SSA's Case Control System (CCS), Case Processing and Management System (CPMS), and Biweekly Staffing Reports. To assess the reliability of the hearings-level workload and performance data that SSA provided, we conducted limited tests for which we obtained comparable data sources

²SSA implemented the Informal Remand initiative in June 2007; thus data for this initiative do not exist prior to fiscal year 2007.

³SSA implemented the reestablished Attorney Advisor Program in November 2007, thus data for this initiative do not exist between fiscal years 2003 and 2007. 73 Fed. Reg 11,349 (Mar. 3, 2008).

identified by SSA. For example, we obtained SSA-831 and SSA-833 data as substitutes for DIODS and CPMS Management Information data as substitutes for CPMS data. We applied the methodology that SSA officials told us they use to calculate workload and performance data to the comparable data sources provided to us for our reliability testing, and compared the results from our analyses with the results reported by SSA. We also interviewed SSA officials and reviewed documents regarding the reliability of these data. In general, we determined that the data were sufficiently reliable for the purposes of our review, although we did find one limitation with DIODS data on CDR decisions at the DDS initial level in fiscal year 2008 that we acknowledge in the report when discussing those data.

While we were able to assess the reliability of hearings-level receipts, dispositions, and pending claims; Appeals Council and court remands to hearing offices; and average hearings-level processing time data for fiscal years 2005 through 2008, we were unable to assess the reliability of these data for fiscal years 2003 and 2004. SSA provided two sources for these data: Hearing Office Tracking System (HOTS), which was replaced by CPMS in fiscal year 2005, and CCS. However, we found that we could not assess the reliability of the data using either source. First, HOTS did not contain raw data that we could manipulate. Second, SSA no longer uses CCS to generate hearings-level workload and performance data, had concerns about the reliability of these data, and no longer had staff with technical expertise and knowledge of these data to help us in our validation efforts.

Components of Sound Planning

To determine the extent to which SSA's Plan included components of sound planning, we assessed the Plan based on criteria from previous GAO reports.⁴ In these reports we defined a number of desirable characteristics of an effective, results-oriented plan, or components of sound planning. Although there is no established set of requirements for all plans, we determined that these components of sound planning help implementing parties and decision makers effectively shape policies, programs, priorities, and resource allocations so that they can achieve desired results while ensuring accountability. While the components may be organized in a variety of ways and/or use different terms, we present them in six categories, from plan conception to implementation. Table 4

⁴[GAO-04-408T](#) and [GAO/GGD-96-118](#).

describes the components of sound planning and examples of their elements.

Table 4: Components of Sound Planning and Examples of Their Elements

Component	Examples of elements
1. Purpose, scope, and methodology	<ul style="list-style-type: none"> • Discusses the plan’s purpose • Defines or discusses key terms, major functions, mission areas, or activities the plan covers • Discusses the process that produced the plan
2. Problem definition, causes, and operating environment	<ul style="list-style-type: none"> • Includes a detailed discussion or definition of the problems the plan intends to address • Includes a detailed discussion of the causes of the problems • Includes a detailed discussion of the operating environment
3. Goals, objectives, activities, and performance measures	<ul style="list-style-type: none"> • Addresses plan goals and subordinate objectives • Identifies specific activities to achieve results • Addresses priorities, milestones, and outcome-related performance measures • Identifies process to monitor and report on progress
4. Resources, investments, and risks	<ul style="list-style-type: none"> • Identifies what the plan will cost • Identifies the sources and types of resources or investments needed • Addresses where resources or investments should be targeted to balance risks and costs • Identifies risk management principles and how they will aid implementing parties in prioritizing and allocating resources
5. Roles, responsibilities, and coordination	<ul style="list-style-type: none"> • Addresses who will be implementing the plan • Addresses lead, support, and partner roles and responsibilities of specific federal agencies, departments, or offices • Addresses mechanisms and processes for parties to coordinate efforts both within the agency and with other agencies
6. Integration among and with other entities	<ul style="list-style-type: none"> • Addresses how the plan relates to other federal/state offices or agencies (horizontal) • Addresses integration with relevant documents from federal, state, and subordinate levels (vertical)

Source: GAO.

Site Visits and Phone Interviews with SSA Central Office and Field Staff

We conducted site visits to the National Hearing Center and to 3 of 10 SSA regions—Atlanta (region 4), Chicago (region 5), and Seattle (region 10)—to obtain information about the challenges of implementing Plan initiatives and the Plan’s potential effects on hearing offices and other SSA operations. During these site visits, we interviewed a variety of staff from seven hearing offices, including Hearing Office Directors, administrative law judges (ALJ), decision writers, and support staff. We also interviewed

officials at three regional Office of Disability Adjudication and Review (ODAR) offices, two state DDS offices, one program service center, and one teleservice center located in our three selected regions.⁵ In addition we conducted phone interviews with staff from several additional offices in our three selected regions, including one DDS office, one program service center, three field offices, and one Regional Office of Quality Assurance.

We used several criteria to select the regions for our site visits. We selected one region that performed above average (region 10) and two that performed below average (regions 4 and 5) based on fiscal year 2007 regional backlog performance factors that we calculated, including the size of the backlog at the end of fiscal year 2007, the number of backlogged claims per ALJ at the end of fiscal year 2007, and the number of backlogged claims in relation to both the number of receipts and the number of dispositions in fiscal year 2007. We also took into consideration that regions 4 and 5 would potentially be most affected by the Plan because together they represented over 60 percent of total backlogged hearings-level claims at the end of fiscal year 2007, each comprising over 30 percent of the backlog on that date.⁶ In addition, Chicago and Seattle were the two regions that GAO previously identified as having a large percentage of aged claims within them.⁷ (See table 5.)

⁵A teleservice center has SSA representatives who answer beneficiary questions about eligibility for benefits and SSA's programs.

⁶Region 10 (Seattle) represented about 3 percent of total backlogged hearings claims at the end of fiscal year 2007.

⁷Although Region 10 (Seattle) performed above average according to regional backlog performance factors, we reported in [GAO-08-40](#) that about half of the dispositions rendered in fiscal year 2006 in regions 5 (Chicago) and 10 (Seattle) took on average between 600 and 999 days. Processing times in region 4 (Atlanta) appeared consistent with national averages.

Table 5: Fiscal Year 2007 Regional Backlog Performance Factors

	Backlog at the end of the fiscal year	Number of backlogged claims per full-time, on-duty ALJ	Backlog as a percentage of total receipts	Backlog as a percentage of total dispositions
Nation	362,253	339	63	66
Region 1 (Boston)	0	0	0	0
Region 2 (New York)	33,873	346	65	64
Region 3 (Philadelphia)	20,211	166	29	31
Region 4 (Atlanta)	118,241	448	77	83
Region 5 (Chicago)	111,009	681	109	136
Region 6 (Dallas)	29,977	217	42	41
Region 7 (Kansas City)	29,129	594	92	113
Region 8 (Denver)	7,649	255	50	49
Region 9 (San Francisco)	4,560	37	9	9
Region 10 (Seattle)	11,324	315	66	66

Source: GAO analysis of SSA data.

Within these 3 regions, we selected seven hearing offices showing differences in terms of receipts, backlogged claims, and average number of dispositions per ALJ in fiscal year 2007. We selected these hearing offices, in part because they were within reasonable proximity to each other within each selected region and were involved with implementing selected Plan initiatives in fiscal year 2008. All of the offices had implemented the Attorney Advisor Program, and one office was piloting the ePulling initiative, both of which SSA believes are key to reducing the backlog. (See table 6.)

Table 6: Fiscal Year 2007 Hearing Office Statistics

	Hearing office	Receipts	Backlog (end of fiscal year)	Average number of dispositions per ALJ
Region 4	Atlanta	4,969	6,662	394
Region 4	Atlanta North	5,902	9,042	559
Region 4	Tupelo	3,774	1,281	446
Region 5	Chicago	4,207	2,193	396
Region 5	Evanston	3,770	0	431
Region 5	Oak Brook	4,543	1,675	442
Region 10	Seattle	6,080	4,052	467

Source: GAO analysis of SSA data.

In addition, we interviewed SSA central office officials, including officials from ODAR, the offices of the Deputy Commissioners for Operations and Quality Performance, and the offices of the Chief Administrative Law Judge, Disability Determinations, Budget, Systems, and the Chief Actuary. We also interviewed officials from various associations, including the National Association of Disability Examiners (NADE), the Association of Administrative Law Judges (AALJ), the National Council of Disability Determination Directors, the National Council of Social Security Management Associations, the Social Security Advisory Board (SSAB), and the National Organization of Social Security Claimants' Representatives (NOSSCR).

To analyze information from the interviews and site visits, we conducted a content analysis using NVivo software and identified factors that contributed to the hearings backlog and the Plan's potential effects on hearing offices and other SSA operations. Of 20 potential effects identified, we selected 8 to highlight in this report based on a number of factors, including how often the effect was cited, the potential severity of the effect, and whether SSA had addressed the effect.

Document Review

We reviewed SSA's Plan and Draft Appomattox Plan, end-of-year annual and semiannual Plan status reports from September 2007 through September 2008, and other documents SSA provided to supplement information in the Plan. We also reviewed prior reports and testimonies from GAO, SSA, and SSA's Office of the Inspector General on the hearings backlog. We also reviewed position papers and testimonies from a number of national disability-related organizations, including NADE, AALJ, NOSSCR, and SSAB. We reviewed these documents to gather information on how SSA developed the Plan and monitored its progress and to gather evaluations of and concerns about the Plan.

Appendix II: Modeling Methodology and Results

This appendix describes the methodology and results of the analysis we used to estimate the likelihood that the Social Security Administration (SSA) will eliminate the hearings-level backlog by the end of fiscal year 2013. Specifically, this appendix contains a discussion of the following:

- the simulation technique and modeling framework we used to estimate the likelihood that SSA will reach its backlog elimination target,
- SSA's modeling framework and results,
- SSA's assumptions and recent experience, and
- a comparison of results from various alternate scenarios.

Modeling Methodology

To conduct our analysis, we developed a modeling framework based on a spreadsheet that SSA used to support its fiscal year 2010 budget request in which it made assumptions about workload, performance, and staffing levels through fiscal year 2013. SSA's Office of Budget originally developed this spreadsheet to evaluate the reasonableness of the SSA Commissioner's goal of eliminating the backlog by the end of fiscal year 2013. SSA's spreadsheet begins with total hearings-level pending at the end of fiscal year 2008 and extends through fiscal year 2013, and includes SSA's updated actuarial projections of disability receipts, expectations about the effect of funding from the American Recovery and Reinvestment Act of 2009 (Recovery Act), and plans for increased fiscal year 2010 budget funding.¹ We used SSA's spreadsheet as the basis for our modeling framework that we input into a commercially available forecasting and risk analysis software program called Crystal Ball to project the likelihood that SSA would eliminate the backlog by its target date, given various scenarios. Specifically, the Crystal Ball program produced results for each of the scenarios by running thousands of simulation trials in which the program randomly selected values for workload, performance, and staffing inputs from ranges that we prespecified.

¹Pub. L. No. 111-5, 123 Stat. 115, 185-86.

SSA's Modeling Framework and Results

SSA developed a similar modeling framework that it used in concert with a Crystal Ball software program to estimate that it has a 78 percent chance of eliminating the hearings-level backlog by the end of fiscal year 2013. SSA officials told us that their framework should not produce results substantially different than those from our framework, given the same assumptions, because it uses the same basic calculation—starting with total hearings-level cases pending at the end of fiscal year 2008 and extending through fiscal year 2013. SSA officials stated that their framework uses slightly different assumptions for productivity and more detailed assumptions for hearings-level receipts. For example, in our framework, there is one high-level summary total for hearings-level receipts, but in SSA's framework, the hearings-level receipts total is broken out into four subcategories, each of which has its own minimum, maximum, and most likely values. We reviewed SSA's framework to better understand SSA's estimate of its likelihood for eliminating the hearings backlog by its projected date, but given our time constraints, we were unable to validate the appropriateness of SSA's new framework.

SSA's Assumptions and Recent Workforce and Performance Experience

In both its fiscal year 2010 budget request spreadsheet and modeling framework, SSA includes assumptions about future levels of hearings-level receipts and dispositions—both of which affect the likelihood that SSA will eliminate its backlog. While hearings-level receipts are driven in part by factors outside of SSA's control, including the health of the economy, size of the population, and appeals file rates, given adequate funding, hearings-level dispositions are primarily driven by factors within SSA's control, including its ability to achieve workforce and performance goals. Because hearings-level dispositions can be controlled by SSA, we evaluated SSA's recent actual workforce and performance experience to determine the impact on its likelihood for eliminating the backlog by fiscal year 2013, if SSA does not meet its goals. To estimate these results, we used performance and staffing data from SSA's Office of the Deputy Commissioner for Disability Adjudication and Review and Office of Disability Determinations for fiscal year 2008 through April 2009. For the workforce and performance assumptions that we varied differently than SSA, we primarily used these recent experience data to formulate our minimum, maximum, and most likely values, but also included SSA's expected values, to allow that SSA could at least achieve its goals. See below.

Hearings-level receipts. We used SSA's hearings-level receipts assumptions to vary this assumption for our results in all of our scenarios,

including SSA's subcategories and related maximum, minimum, and most likely values.

Average number of on-duty ALJs. SSA's goal is to hire enough ALJs to reach a cadre of about 1,450 in fiscal year 2011, but SSA officials told us that the average number of on-duty ALJs could be slightly less because of annual ALJ attrition and timing constraints in the hiring process. Thus, SSA assumes that it will be able to hire ALJs to reach an average of 1,442 ALJs on duty in fiscal year 2011 and maintain that level through 2013. Our assessment of SSA's staffing data shows that in fiscal year 2008, SSA's average number of on-duty ALJs was 1 percent lower than SSA expected, and in fiscal year 2009 through April, SSA's average number of on-duty ALJs was 2 percent below SSA's expectation for the year. Thus, to estimate the impact of SSA's not meeting this goal, we used values for this assumption that ranged from 98 percent of SSA's annual expectation to 100 percent of SSA's expectation, with a most likely value of 99 percent of SSA's expectation—the difference actually experienced by SSA in fiscal year 2008.

Average ALJ availability. Generally, SSA assumes that experienced ALJs are available about 93 percent of the time, but in years when SSA hires many new ALJs, it assumes that average ALJ availability will be lower because the new ALJs need to be trained and gain experience before they start to produce at the level of an experienced ALJ. In fact, because SSA plans to hire ALJs in fiscal years 2009 through 2013 to reach and maintain a cadre of about 1,450 ALJs, SSA assumes lower average ALJ availability percentages in each year through fiscal year 2013—about 90 percent of the time in fiscal years 2009 and 2010 and between 91 and 92 percent in each fiscal year from 2011 to 2013. Our analysis of SSA staffing data shows that average ALJ availability, as reported by hearing offices, was 88 percent in fiscal year 2008, when SSA hired 190 additional ALJs, and 91 percent in fiscal year 2009 through April. Because SSA plans to hire over 360 additional ALJs in fiscal years 2009 and 2010, we used values for this assumption that ranged from 88 percent to 91 percent, actual reported values, with a most likely value of SSA's expected average of 90 percent. However, consistent with SSA's expectations, we used average ALJ availability values for fiscal years 2011 through 2013, ranging from 91 to 92 percent, with a most likely average availability of 92 percent.

Average ALJ productivity. SSA assumes that average ALJ productivity will be about 570 dispositions per average available ALJ in fiscal years 2009 through 2013. Though SSA's way for measuring productivity in its modeling framework differs slightly from the measure we used in our

modeling framework, SSA officials agreed that an average ALJ productivity of 570 plus or minus 3 percent was a fair representation of its productivity assumption. Our analysis of recent performance data shows that ALJs have not produced 570 dispositions per average available ALJ in the past 5 years. Most recent experience shows that each average available ALJ produced at an annualized rate of about 546 dispositions in fiscal year 2009 through April. However, since SSA plans to hire additional support staff with funding provided through the Recovery Act, its fiscal year 2009 appropriation, and its fiscal year 2010 budget request, we estimated that this number could be adjusted upward to 560 dispositions per average available ALJ to reflect the potential effect of the increased support staff on ALJ performance. Consistent with SSA's treatment of a similar assumption about productivity, we assumed a variation of plus or minus 3 percent around this value to develop our minimum and maximum average ALJ productivity range.

Informal remands reversed. Since this initiative was new in fiscal year 2007, and thus few recent data existed, we used SSA's assumptions in our modeling framework. SSA used point estimates of 8,500 informal remands reversed for each year and did not attribute maximum, minimum, and most likely values to this disposition type.

Attorney Advisor Program dispositions. Since this initiative was reestablished in fiscal year 2008, and thus few recent data existed, we used SSA's assumptions in our modeling framework. SSA used a most likely value of 32,300, and a range of plus or minus 1 percent of 32,300 for this disposition type.

Results from Various Alternate Scenarios

To test the consistency between SSA's and our modeling frameworks, we used an approximation of SSA's more detailed assumptions in our framework, since SSA officials told us the assumptions were generally still appropriate, and estimated that SSA has a 77 percent likelihood of eliminating the backlog by fiscal year 2013.

In addition to replicating SSA's results, we ran several alternate scenarios with varying assumptions to show how the likelihood of SSA's eliminating the backlog by the end of fiscal year 2013 may change if SSA is able to make progress toward its goals on workforce or performance, but not achieve them completely. For all of our alternate scenarios, we used varying combinations of SSA's assumptions and assumptions from our assessment of recent SSA experience about average numbers, availability, and productivity of ALJs. In these scenarios, we found that

- If SSA achieves the ALJ productivity levels it assumes, but its average ALJ hiring and availability are consistent with SSA's recent experience, we estimate it has about a 53 percent chance of eliminating the hearings-level backlog by 2013.²
- If SSA achieves the ALJ hiring and availability levels it assumes, but its average ALJ productivity is consistent with SSA's recent experience, but increased because of additional support staff, we estimate that it has about a 34 percent chance eliminating the hearing-level backlog by 2013.³
- If SSA does not achieve any of the levels of ALJ hiring, availability, or productivity that it assumes, and if its performance is consistent with SSA's recent experience—but productivity is increased because of additional support staff—we estimate that SSA has about a 14 percent chance of eliminating the hearings-level backlog by 2013.⁴

²The number of claims backlogged could range from -199,355 to 171,318.

³The number of claims backlogged could range from -155,151 to 195,925.

⁴The number of claims backlogged could range from -125,897 to 228,092.

Appendix III: Status of Plan Initiatives

Plan initiatives ^a	SSA's intended effects on the hearings backlog ^b	Status as of fiscal year 2008 year end ^c
Approach: compassionate allowances		
1 Use processes, such as Quick Disability Determinations, to screen claims for approval at the initial claims level	Indirect effect—allow claims to be decided quicker and improve accuracy at the initial claims level, possibly reducing the number of claims entering the hearings level	Was not included in SSA's fiscal year 2008 Year End Annual Report on the Plan.
2 Update medical listings and definition of disability categories for the initial claims level	Indirect effect—allow claims to be decided quicker and improve accuracy at the initial claims level, possibly reducing the number of claims entering the hearings level	Was not included in SSA's fiscal year 2008 Year End Annual Report on the Plan.
3 Reorganize the Office of Disability and Income Support Programs	Does not relate—SSA noted that initiative should be deleted from the Plan	Was not included in SSA's fiscal year 2008 Year End Annual Report on the Plan.
4 Refine two primary Disability Determination Services (DDS) electronic systems for the initial claims level	Indirect effect—improve electronic capabilities by supporting systems at the initial claims level for other Plan initiatives, including Quick Disability Determinations and processing informal remands from the hearings level	Was not included in SSA's fiscal year 2008 Year End Annual Report on the Plan.
Approach: improve hearing office procedures		
5 Reduce aged claims at the hearings level by working on those that have been in the hearings process the longest	Improve processing time as claims become more current by reducing the number of older claims, which may take longer to process than newer ones	Eliminated all claims that would be 1,000 days old in fiscal year 2007 and 900 days old in fiscal year 2008, and work on 850-day old claims in fiscal year 2009.
6 Allow attorney advisors to issue fully favorable decisions at the hearings level without direct ALJ involvement (Attorney Advisor Program)	Increase dispositions and improve processing time by expediting claims that are screened to be fully favorable	Attorney advisors issued 24,575 fully favorable decisions in fiscal year 2008.
7 Hire additional ALJs and support staff for the hearings level, appoint senior judges, and hire ALJs from other agencies	Increase dispositions	A total of 190 new ALJs were hired in fiscal year 2008. The number of support staff hired was not included in SSA's fiscal year 2008 Year End Annual Report on the Plan.
Approach: increase adjudicatory capacity		
8 Increase overtime allocations for hearing office and other SSA staff to prepare, or pull, claims for review in order to fill hearing dockets to capacity	Increase the number of claims ready for ALJ review	Deputy Commissioner of Operations employees used 62,800 hours of overtime in hearing offices to complete 866,000 tasks, including preparing over 13,000 claims through streamlined folder assembly in fiscal year 2008.
9 Provide options for ALJs to voluntarily review streamlined folders, or folders that are either unprepared or partially prepared by support staff, in order to fill hearing dockets to capacity	Increase the number of claims ready for ALJ review	Over 51,000 claims were prepared for hearings using streamlined folder assembly in fiscal year 2008.

Appendix III: Status of Plan Initiatives

Plan initiatives^a	SSA's intended effects on the hearings backlog^b	Status as of fiscal year 2008 year end^c
10 Improve ALJ productivity to 500 to 700 dispositions per year	Increase dispositions	Issued a letter communicating expectations to ALJs in October 2007. Also convened the first National Judicial Education Conference for ALJs and administrative appeals judges. ALJs conducted over 14,700 more hearings in fiscal year 2008 than in fiscal year 2007.
11 Screen potentially favorable claims at the hearings level and return, or remand, them to the DDS initial claims level (Informal Remand initiative)	Reduce hearing office workload—remanded claims that are found favorable are dismissed at the hearings level, while those not decided as favorable are returned to the hearings level	Of 50,000 claims remanded, nearly 17,000 decisions were made by the DDS initial claims level in fiscal year 2008.
12 Implement a screening process where medical experts provide input to ALJs for likely on-the-record decisions, or decisions that can be made without a hearing	Improve processing time by increasing the number of claims decided on the record	Implemented a medical expert screening process in March 2008.
13 Open a centralized National Hearings Center to handle electronic claims files at the hearings level and conduct only video hearings	Balance hearing office workloads by transferring claims from hearing offices with higher backlogs to the National Hearings Center	A National Hearings Center opened in Virginia in October 2007 and issued over 2,000 dispositions on over 4,500 claims transferred in fiscal year 2008. National Hearing Centers in New Mexico and Illinois are planned for fiscal year 2009.
Approach: increase efficiency with automation and improved business processes		
14 Develop a new electronic claim-processing and management system for the Appeals Council	Save time for hearings-level support staff by eliminating some support staff functions in converting Appeals Council remands from paper to electronic files	Trained staff and implemented system in June 2008.
15 Increase the amount of electronic data propagated to the Hearing Office claim-processing system	Save time for hearings-level support staff by generating more data electronically	Enhancements made to July 2008 systems release.
16 Provide ALJs the ability to sign hearings-level dispositions electronically (eSignature)	Save time for hearings-level support staff by eliminating some support staff functions necessary for obtaining an ALJ signature via paper	Implemented in July 2008.
17 Centralize hearing office printing and mailing through a private contractor	Save time for hearings-level support staff by eliminating some support staff printing and mailing functions, such as notices to claimants	Implemented in August 2008 with 11 notices. Additional notices to be added.
18 Enhance electronic hearing office management information	Improve management and accountability for hearing offices	Additional reports released and more to be added.
19 Provide support to send additional documents to the hearings-level electronic folder	Save time for hearings-level support staff by eliminating some support staff printing and scanning functions	In development.

Appendix III: Status of Plan Initiatives

Plan initiatives ^a	SSA's intended effects on the hearings backlog ^b	Status as of fiscal year 2008 year end ^c
20 Provide shared access to the hearings-level electronic folder for other components involved in the disability process, such as the DDS initial claims level and Appeals Council	Improve coordination among SSA offices involved in the disability process	Enhancements made in February 2008.
21 Enhance the Electronic Records Express, an Internet support system for authorized claimant representatives at the hearings level	Save time for hearings-level support staff by eliminating some support staff functions in compiling and sending information to claimants' representatives by allowing authorized representatives to access their claimants' files electronically	Pilot began in July 2008.
22 Provide additional video hearing equipment to conduct hearings, including video units in hearing rooms, on ALJ desktop computers, and on desktops of authorized claimant representatives	Save time and costs for ALJs by eliminating the need for ALJs to travel for hearings; improve processing times because travel dockets do not have to wait to be filled before ALJs hear the claims, and the number of available hearing facilities is increased; balance hearing office workloads by providing the ability to transfer claims between hearing offices in different geographic locations	Added 145 new video units. Pilot for desktop video units for hearing offices began March 2008. Process of developing desktop video units for claimant representatives is ongoing.
23 Update hearing office electronic systems infrastructure	Improve electronic capabilities	Installed new servers, workstations, printers, videoconferencing equipment, and telecommunications equipment in hearing offices, including at the National Hearings Center.
24 Implement electronic file assembly for the hearings level to automate claim preparation, or pulling (ePulling)	Save time for hearings-level support staff by eliminating some support staff claim preparation activities prior to ALJ review, such as numbering pages and removing duplicate documents	Pilot began in August 2008.
25 Implement electronic scheduling of hearings (eScheduling)	Save time for hearings-level support staff by eliminating some support staff functions in scheduling hearings	In development.
26 Transition hearings-level paper claims to the electronic folder system	Improve electronic capabilities	Eighty-six percent of pending workload in fiscal year 2008 is electronic.
27 Mandate the Findings Integrated Template (FIT), an electronic template for decision writing	Reduce hearings-level workloads by preventing Appeals Council remands due to improved hearings-level decision writing	Template was used to draft 94 percent of written decisions in fiscal year 2008.
28 Provide the ability for the Appeals Council to issue final decisions on claims that would have been remanded to the hearings level (Appeals Council initiative)	Reduce hearings-level workloads by decreasing the number of remands from the Appeals Council	Appeals Council remands consistently decreased in fiscal year 2008.
29 Provide improved training to the hearing office management teams	Improve management and accountability for hearing offices	Training Web site launched in January 2008 and hearing office management summit was held in June 2008.

Appendix III: Status of Plan Initiatives

Plan initiatives ^a	SSA's intended effects on the hearings backlog ^b	Status as of fiscal year 2008 year end ^c
30 Expand cooperation among hearing offices, SSA field offices, and SSA area director offices	Indirect effect—improve customer service and coordination among SSA offices involved in the disability process	National work group developed recommendations.
31 Establish a standardized electronic business process to provide procedural guidance on how claims should be processed at the hearings level; conduct task time analyses to determine processing times for each stage of the electronic business process at the hearings level	Improve management and accountability for hearing offices. Save time for ALJs—ensures that claims are appropriately prepared for ALJ review; balance hearing office workloads by allowing claims to be more easily transferred between hearing offices because they are prepared similarly	Process was developed based on best practices and established policies to ensure consistent case processing methods throughout the Office of Disability Adjudication and Review.
32 Implement an in-line quality assurance program for claim preparation and decision writing	Improve management and accountability for hearing offices, save time for ALJs by ensuring that claims are appropriately prepared for ALJ review, balance hearing office workloads by allowing claims to be more easily transferred between hearing offices because they are prepared similarly, reduce hearing office workloads by preventing Appeals Council remands due to technical errors in hearings-level decision writing	In development.
33 Use electronic tools to expand reviews of claims denied at the reconsideration level, which are made after the initial claims level and before the hearings level	Reduce hearings-level workloads by improving the accuracy of reconsideration level decisions that may enter the hearings level	Reviews began in September 2007.
34 Continue decision writer productivity improvements	Improve processing time by increasing decision writer productivity	Management tools introduced in fiscal year 2007 to assess the timeliness of decision writer workloads.
35 Effectuate service area realignments and claim transfers between hearing offices	Balance hearing office workloads by transferring claims from hearing offices with higher backlogs to hearing offices with lower backlogs	Realignment and claim transfer plan implemented and analysis of workload data continues.
36 Use weekly workload reporting and monitoring at the hearings level	Improve management and accountability for hearing offices	Hearing office managers encouraged to monitor hearing office workloads weekly and additional workload reports are being developed.
37 Colocate remote hearing sites with SSA field offices	Indirect effect—improve customer service and conserve SSA resources	Colocation plan developed and will be implemented as leases expire.
38 Improve the public ALJ alleged misconduct complaint process	Indirect effect—improve management, and accountability of ALJs	Electronic fact sheets, posters, and letters to claimants updated. System to track complaints is in development.

Source: GAO analysis of SSA data.

^aBased on SSA data.

^bBased on SSA data.

^cBased on SSA's *Plan to Eliminate the Hearing Backlog and Prevent Its Recurrence Annual Report, Fiscal Year 2008*.

Appendix IV: Comments from the Social Security Administration



SOCIAL SECURITY

The Commissioner

July 20, 2009

Daniel Bertoni, Director
Education, Workforce, and Income Security Issues
U.S. Government Accountability Office
441 G St., NW
Washington, D.C. 20548

Dear Mr. Bertoni:

Thank you for the opportunity to review and comment on the Government Accountability Office (GAO) draft report, "SOCIAL SECURITY DISABILITY: Additional Performance Measures and Better Cost Estimates Could Help Improve SSA's Efforts to Eliminate Its Hearings Backlog" (GAO-09-398).

Enclosed are our detailed comments to the draft report findings and recommendations, along with suggested technical revisions.

If you have any questions, please contact me or have your staff contact Candace Skurnik, Director, Audit Management and Liaison Staff, at (410) 965-4636.

Sincerely,

Michael J. Astrue

Enclosure

SOCIAL SECURITY ADMINISTRATION — BALTIMORE, MD 21235-0001

COMMENTS ON THE GOVERNMENT ACCOUNTABILITY OFFICE (GAO) DRAFT REPORT, "SOCIAL SECURITY DISABILITY: ADDITIONAL PERFORMANCE MEASURES AND BETTER COST ESTIMATES COULD HELP IMPROVE SSA'S EFFORTS TO ELIMINATE ITS HEARINGS BACKLOG" (GAO-09-398)

Our responses to the specific recommendations are as follows:

Recommendation 1

Develop performance goals and measures for initiatives that currently do not have them.

Comment

We partially disagree. We currently have established performance goals and measures for 19 of our 35 initiatives.¹ Fourteen of the remaining initiatives are not conducive to a performance goal or measure (such as, improving the administrative law judge (ALJ) misconduct process and improving hearing office management training). Rather than imposing a quantitative measure, we track milestones to ensure these initiatives remain on schedule for implementation.

We are in the process of developing goals and measures for the remaining two initiatives, standardized electronic business process and in-line quality assurance program. We currently monitor our progress on these initiatives using management information from our Case Processing and Management System (CPMS).

We are also developing a management oversight tool called the Disability Adjudication Reporting and Evaluation System (DARES) that will contain information about the overall "health" of the initiatives based upon metrics, scheduling timelines, and risk assessments. With this reporting and decisional support dashboard tool, executives overseeing the hearing backlog initiatives can more quickly identify early warning signs and take necessary action to keep the initiatives on track. While it is still a work in progress, this tool will address risk analysis and mitigation strategies for each component of the plan. Existing management information will show the data, or metrics, used to assess how close we are to the target. The metric data in DARES is based on CPMS management information, disability adjudication reporting tools (DART), and spreadsheets that have been developed for specific initiatives. Release 1 of DARES, supporting the first group of initiatives (e.g., aged cases, senior attorney adjudication and

¹ The GAO draft report, pages 44 – 47, lists 38 hearings backlog plan initiatives. The first four refer to compassionate allowances, which we now refer to as fast-tracked initial decisions. As the draft report notes, these four initiatives were not included in our FY 2008 year end annual report of the plan, as they either had indirect effects on the hearings backlog or did not relate to the backlog-reduction effort. Another initiative called automated noticing, i.e., the generation of notices via CPMS, is not listed in the GAO draft report but will be in planning and analysis in FY 2010. Thus, we discuss in these comments a total of 35 hearings backlog plan initiatives.

DDS informal remands), will be in production in August 2009. Subsequent releases will accommodate additional initiatives.

Recommendation 2

Develop cost estimates for the initiatives SSA considers critical to eliminating the hearings-level backlog in addition to the time savings estimates already developed.

Comment

We disagree with the finding that we did not develop cost estimates for the backlog reduction plan. An essential part of our development and implementation planning process was a full evaluation of the costs and savings associated with implementing all major aspects of the plan. Our budget requests for fiscal years (FY) 2009 and 2010 incorporate the full costs and savings related to implementation of the plan. Specifically, as part of the budget formulation process, we are required to identify associated costs and potential cost savings of any initiatives we plan to pursue. In developing the plan, we identified and included electronic initiatives that were in the early developmental stages and, thus, we did not include specific costs savings for each initiative. However, overall we have provided for the anticipated impact on the backlog, and over time, we have refined cost and savings estimates when possible.

Recommendation 3

Move forward with formalizing agency risk assessments associated with the Plan's implementation, including assessing both risks that would hinder the Plan's success and risks that could cause adverse effects or trade-offs related to hearings-level performance and other SSA operations along with mitigating strategies.

Comment

We agree that we need to move forward on formalizing risk assessment and note that we are being proactive in identifying risks. While we implemented the plan quickly to address a critical workload, we have monitored all initiatives closely, and we continue to assess issues that could prevent the success of an initiative and to plan mitigation strategies, if possible. Although we may not have done "formal" risk analysis for every initiative, since the plan's inception, we have considered risks we may encounter and what effect the initiative may have on all SSA components. We have put strategies in place to deal with these risks using tools such as CPMS management information reports, internal spreadsheets, and DART. As indicated above, we are currently developing an additional tool for executive oversight, called DARES, which will serve as the repository for both the evaluation of risks associated with each initiative and the proposed mitigation strategies for use if the risk materializes. Release 1 of DARES is scheduled to be in production in August 2009. We will be developing future DARES releases that will continue to address potential risks and formulate further mitigation strategies.

In addition, we are now using predictive modeling software that will assist us in identifying potential risks throughout the process.

We agree that it is important to proactively identify risks and are taking steps to do that, but this activity must be balanced with the urgency to take action to help those who have waited so long for a hearing decision. Delaying implementation of the backlog reduction plan would have been the biggest risk of all, and was not an option, considering the increasing receipts and the lengthy waiting time for a hearing decision.

We offer the following general and technical comments regarding the report for your consideration:

General Comments

ALJ Productivity

We agree that ALJ productivity is very important to the success of our backlog reduction efforts. In fact, when we performed our risk analysis using *Crystal Ball*, this was one of the factors to which we assigned variability. Therefore, our determination that we have a 78 percent chance of success includes scenarios in which productivity differs from the budgeted assumption. For example, we allowed the hearings productivity per workyear to vary from 103 hearings per workyear to 110 hearings per workyear in FY 2009 based on historic variability. Even with that variability in productivity, our analysis still showed a 78 percent chance of reducing the hearings backlog to 466,000 by the end of FY 2013.

The FY 2010 President's Budget assumes ALJ productivity of approximately 2.28 cases per available ALJ per working day. We have a number of approaches for projecting productivity, but in this case, we estimated overall ALJ productivity based on FY 2008 actual performance at the point in time we were formulating the budget. Our productivity projection represents the annual rate we were achieving at that point, and, as such, was a somewhat conservative estimate.

We are currently on track to hit at least 570 dispositions (2.28 per day) per available ALJ in FY 2009. In addition, based on the historical ALJ productivity over the last four years, it is clear that there is an upward trend. Therefore, not only is it reasonable to assume a 2.28 ALJ productivity level, it is possible that ALJ productivity will actually be greater than budgeted if the upward trend continues.

Moreover, increased management attention has also helped to improve ALJ productivity and is expected to continue to do so. From the beginning of FY 2005 until initial implementation of the hearings backlog reduction plan in FY 2007, the daily ALJ production rate averaged 2.18. Since that time, the average ALJ production rate has increased to 2.38. Our focus on the hearings backlog reduction plan has clearly made an impact and has helped us begin reducing the hearings backlog.

In connection with the Chief ALJ's guidance concerning 500-700 dispositions per ALJ per year, we request that the final report reference the Office of the Inspector General report on ALJs' Caseload, A-07-07-17072. The link for that report is: <http://www.socialsecurity.gov/oig/ADOBEPDF/auditxt/A-07-07-17072.htm>

The Office of Personnel Management's (OPM) ALJ Register

We agree that achieving our ALJ hiring goals is critical to the success of the plan, and we need OPM's assistance and cooperation to meet these goals.

With OPM's assistance and attention to this important matter, we are confident that we will be able to hire a sufficient number of ALJs to reduce the backlog. However, we too are concerned that any delays in hiring ALJs pose a risk to our backlog plan.

The Economy

In addition to the sensitivity to ALJ productivity and hiring, the success of our plan is also dependent on our workload receipts. We are currently reassessing our workload receipt estimates resulting from the changing economic conditions and will publish them shortly. We expect to see a significant increase in initial disability applications and ultimately hearing requests.

The draft report notes that the current recession is contributing to a significant increase in disability claims receipts and that this increase has the potential to magnify the challenges we face in eliminating the backlog. Experience has shown that when the number of initial disability applications goes up, the number of hearing requests also will increase. These increased hearing requests may jeopardize our goal of eliminating the backlog by the end of FY 2013. Only if we fully realize our assumptions and receive timely, adequate, and sustained funding will we be able to maintain momentum and stay on course to reach our 2013 goal.

The Effect on Operations

We need to take a closer look at the effect that a 20 percent increase in ALJ productivity starting in 2010 could have on Operations. We have analyzed the effect on Operations staff and the actions we may need to take.

We have been anticipating an increase in ALJ dispositions and have taken several steps to ensure timely processing of the increased case dispositions, including:

- In January 2008, we developed a plan for electronic identification and tracking of all Program Service Center (PSC) 7 jurisdiction cases cleared from the Office of Disability Adjudication and Review (ODAR). The new process allows cases to be worked based on the hearing request date, consistent with our efforts to improve customer service.

- In August 2008, we established a new component called the Centralized ALJ Group (CAG) in PSC 7 to better control the ALJ disposition workload in a centralized location. The sole function of the CAG is to effectuate ALJ cases. This "economy of scale" centralization process improves technicians' proficiency and efficiency. It also provides tighter management and tracking control of this sensitive workload.
- We are monitoring hearing disposition receipt patterns on a daily basis and specific workload instructions on a daily and/or weekly basis to increase the focus on processing cases as the need arises. Additionally, overtime resources are dedicated for processing ALJ cases as needed.
- We are hiring additional claims technical examiners and benefit technical examiners in the PSCs in anticipation of increasing ALJ disposition receipts.

We have seen significant improvement in the processing of the ALJ workload because of these actions. For the week ending July 10, 2009, the number of ALJ cases pending in Operations was reduced to 11,737 from the peak pending of 18,437 cases during the last week of November 2008.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Daniel Bertoni, Director, (202) 512-7215 or bertonid@gao.gov

Staff Acknowledgments

Shelia Drake, Assistant Director; Julianne Hartman Cutts; Jessica Gray; and Nhi Nguyen made significant contributions to this report. In addition, Craig Winslow provided legal assistance, Walter Vance and Mehrzad Nadji provided methodological assistance, Vanessa Taylor assessed the reliability of data used in the report, and Jessica Orr assisted in report development.

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