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SOCIAL SECURITY DISABILITY

Management of Disability Claims Workload Will Require Comprehensive Planning

Statement of Daniel Bertoni, Director Education, Workforce, and Income Security





Highlights of GAO-10-667T, a testimony before the Subcommittees on Social Security and Income Security and Family Support, Committee on Ways and Means, House of Representatives

Why GAO Did This Study

For years, the Social Security Administration (SSA) has been challenged to manage its large disability claims workload. Difficulties in making timely and accurate decisions have contributed to backlogs accumulating at different levels of the claims process. These backlogs have occurred most often at the hearings level, the level at which initial claims that were denied are appealed and await a hearing before an administrative law judge. Claimants often experienced long waits for a decision on their claim because of this backlog. In May 2007, SSA released a plan designed to eliminate its hearings-level backlog. GAO was subsequently asked by Congress to evaluate this plan and issued a report in September 2009 (GAO-09-398).

This testimony discusses SSA's backlog reduction plan and the challenges the agency faces in managing its overall claims workload. It draws primarily from GAO's September 2009 report as well as from SSA's Fiscal Year 2009 Performance and Accountability Report, its Annual Performance Plan for Fiscal Year 2011 and Revised Final Performance Plan for Fiscal Year 2010, its fiscal year 2011 budget request documents, and recent reports issued by SSA's Office of the Inspector General (OIG).

View GAO-10-667T or key components. For more information, contact Daniel Bertoni at (202) 512-7215 or bertonid@gao.gov.

SOCIAL SECURITY DISABILITY

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What GAO Found

In September 2009, GAO reported that SSA's backlog reduction plan should help reduce the hearings backlog, but that SSA's ability to eliminate it by the agency's target date of 2013 would require SSA to achieve all of its key workforce and performance goals. GAO found that these goals set higher levels of performance than the agency has ever experienced. GAO also found that SSA's 2007 Plan did not include performance goals and measures or cost estimates for many initiatives. Finally, GAO reported that the 2007 Plan, which could pose some risks to the quality of hearings decisions and to other operations, lacked an appropriate risk assessment with contingency plans. GAO recommended that SSA develop additional performance goals and measures and cost estimates for the initiatives it considered most critical, conduct analyses of risks associated with the Plan's implementation, and identify strategies to address them. In response, SSA noted that it was expanding its risk analysis capabilities. The agency also agreed to examine the Plan's potential impact on other SSA operations. However, SSA did not believe additional performance goals and measures and cost estimates were necessary since the agency was tracking plan initiatives to ensure that they were on schedule and had developed total cost estimates as part of its budget process.

Since September 2009, SSA has reported progress toward eliminating its hearings-level backlog—defined as reducing the number of pending cases to SSA's target of 466,000. In March 2010, SSA reported that pending cases were down to 697,437 from 760,000 in fiscal year 2008. SSA also reported additional backlog reduction strategies in its 2010 and 2011 annual performance documents. One strategy is to relieve pressure on the hearing offices by reinstituting the Disability Determination Services (DDS) reconsideration process in 10 states where it had previously been eliminated as a pilot project. SSA also announced that it will open two new centralized operations to help the hearing offices with administrative tasks. Meanwhile, SSA also reported in its 2011 annual performance plan that it will develop strategies to deal with potential backlogs at the initial claims level. At the end of fiscal year 2009, about 780,000 initial claims were pending at state DDS offices and the agency projects that number will exceed 1 million by the end of fiscal year 2010. In its 2011 annual performance plan, SSA outlined several other remedies, including hiring, increasing overtime, and simplifying policies. Finally, SSA requested additional funds to help with its continuing disability reviews, which were reported by SSA's OIG to be backlogged at 1.5 million cases at the end of fiscal year 2009. GAO has yet to assess the agency's new strategies, but GAO's prior work suggests that changes to any one operation in the disability program can affect work flow in unexpected ways at other stages. Therefore, given its many growing pressure points, effective management of the disability claims process will require comprehensive and integrated planning.

Mr. Chairmen and Members of the Subcommittees:

I am pleased to be here today to discuss the Social Security Administration's (SSA) efforts to reduce its disability claims backlogs. Each year, millions of Americans who believe they can no longer work because of severe physical or mental impairments apply for cash benefits through SSA's two disability programs—Disability Insurance and Supplemental Security Income. Historically, SSA has experienced large numbers of cases that are pending at one or more of the four levels of its disability claims process. When the number of cases exceeds what the agency considers optimal for managing workflow, they are recognized as a "backlog." Over the years, such backlogs have resulted in long waits for claimants to learn whether they qualify to obtain disability benefits. In recent years, SSA's disability claim workloads have been most problematic at the hearings level, the step at which claimants whose requests for benefits have been denied by Disability Determination Services (DDS) are awaiting a hearing before an administrative law judge (ALJ). Backlogged claims at the hearings level rose from 12,000 cases in 1999 to nearly 295,000 cases at the close of fiscal year 2008. In that year, claimants waited, on average, almost a year and a half after they requested a hearing to receive a decision on their claim.

Today, I will discuss (1) SSA's efforts to eliminate its hearings-level backlog and (2) ongoing challenges SSA faces with its disability claims workloads. My statement draws primarily from our September 2009 report assessing SSA's current plan for eliminating the hearings-level backlog by fiscal year 2013 and preventing its recurrence. We conducted the work for our September 2009 report 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 findings and conclusions based on our audit objectives. For this testimony we also reviewed prior GAO reports, SSA's Fiscal Year 2009 Performance and Accountability Report, its Annual Performance Plan for Fiscal Year 2011 and Revised Final Performance Plan for Fiscal Year 2010, its fiscal year 2011 budget

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¹GAO, Social Security Administration: Additional Performance Measures and Better Cost Estimates Could Help Improve SSA's Efforts to Eliminate Its Hearings Backlog, GAO-09-398 (Washington, D.C.: Sept. 9, 2009).

request documents, and recent SSA Office of the Inspector General (OIG) reports.

Background

Under the Social Security Act, SSA administers both the Disability Insurance and Supplemental Security Income programs.² 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.³

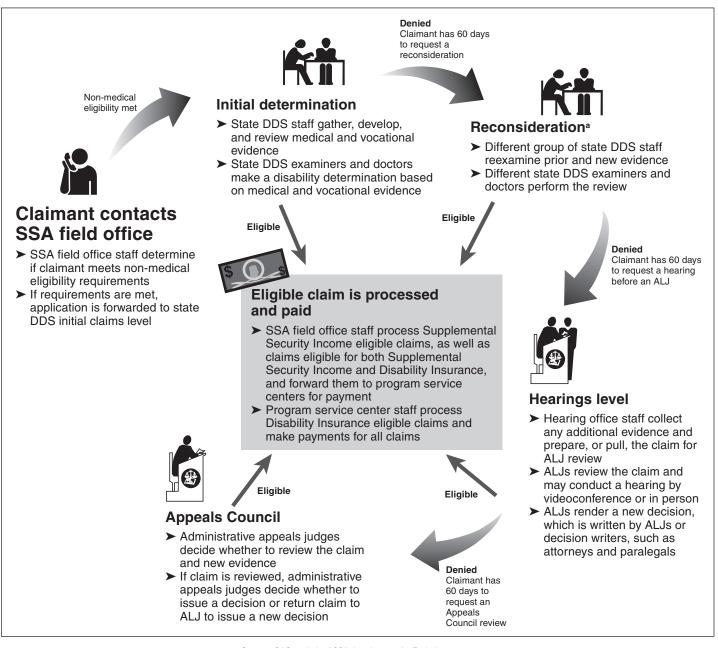
The process to obtain SSA disability benefits can involve up to four steps—two steps at the state level—(1) an initial determination and (2) an opportunity for reconsideration of this determination—and two steps for appeal at the federal level—(3) the SSA hearing office and (4) the Appeals Council, which is SSA's final administrative level of appeal. 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 SSA field offices for payment. (See fig. 1.)

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²Throughout this report, when we refer to SSA disability claims, we are referring to claims filed under the Disability Insurance and Supplemental Security Income programs.

³Eligibility for Supplemental Security Income 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).

Figure 1: SSA's Claims Disability Process



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

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

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Individuals who are awarded disability benefits must periodically undergo continuing disability reviews (CDR) to determine whether they remain medically eligible for benefits. SSA generally determines when beneficiaries will undergo such reviews—called medical CDRs—based on their potential for medical improvement.⁴ The law generally requires that these CDRs be performed at least once every 3 years.⁵

Over the years, SSA has faced disability claims processing challenges and has taken actions to address them. In a prior report on SSA disability claims, we noted that while backlogs have accumulated at different levels of the claims process from fiscal years 1997 to 2006, they had occurred most often at the hearings level. Also in prior reports, we described backlogged claims, lengthy processing times, and other processing challenges attributable, in part, to a range of factors: significant increases in disability applications, substantial turnover and losses in personnel throughout the disability process, budget constraints, and SSA management weaknesses, as evidenced by poor planning and implementation of prior initiatives intended to remedy disability backlogs. Over the years, SSA has taken a number of backlog reduction actions, including those at the hearings level. In the past, however, these actions have yielded mixed results. Most recently, SSA issued a multi-initiative "Plan" in May 2007 to eliminate the backlog at the hearings level by 2013. In May 2009, SSA issued a draft update to this plan, known as the Appomattox Plan.

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⁴20 C.F.R. § 416.990 (2009). 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.

⁵42 U.S.C. § 421(i)(1).

⁶GAO, Social Security Disability: Better Planning, Management, and Evaluation Could Help Address Backlog, GAO-08-40 (Washington, D.C.: Dec. 7, 2007).

SSA's Backlog Reduction Plan Has Helped to Reduce the Hearings Backlog but Poses Some Risks to Hearings and Other Operations In September 2009, we reported that while SSA's backlog reduction plan should help to eliminate the hearings-level backlog by 2013, its success would depend largely on the agency's ability to achieve its key workforce and performance goals. To eliminate the hearings-level backlog, SSA's goal is to reduce the number of claims pending from more than 760,000 in fiscal year 2008 to 466,000 by the end of fiscal year 2013. We noted in our report that to substantially achieve this goal, SSA's assumptions at that time regarding ALJ productivity, hiring, and availability would need to be fully realized. We also noted, however, that these assumptions projected higher levels of performance than the agency had historically or even recently experienced as of April 2009. If SSA did not achieve its ALJ productivity goals of approximately 570 dispositions annually per ALJ, we estimated that the agency's chances of eliminating its backlog by 2013 would be reduced by more than half, even if the agency met its goals for ALJ hiring and availability.

Meanwhile, we also found that while SSA's May 2007 Plan included important elements of sound planning,⁸ it did not provide some key management information that could facilitate effective plan management. The Plan contained 38 initiatives aimed at (1) allowing claims to be decided more quickly and accurately, (2) improving hearing office procedures, (3) increasing adjudicatory capacity, and (4) increasing efficiency through automation and improved business processes.⁹ However, the Plan did not include performance goals and measures for about half of the initiatives and cost estimates for many. Such planning elements would allow SSA to evaluate the initiatives' progress and determine resource allocations and return on investment.

Therefore, we recommended that SSA develop performance goals and measures for initiatives that did not have them, and that it also develop cost estimates for plan initiatives that the agency considered critical to

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⁷We also considered SSA's draft Appomattox Plan.

⁸To determine the extent to which SSA's Plan included components of sound planning, we assessed the Plan against criteria from previous GAO reports that identified desirable characteristics of an effective, results-oriented plan. See GAO, *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).

⁹While we listed 38 initiatives from SSA's backlog reduction plan in our report, SSA subsequently combined four initiatives and added one, resulting in a total of 35 initiatives.

eliminating the hearings-level backlog. SSA disagreed that it should develop additional performance goals and measures beyond those it had already developed, noting instead that the agency was tracking milestones to ensure that all initiatives were on schedule for implementation. SSA also disagreed that it should develop cost estimates, noting that it had conducted and incorporated into its fiscal years 2009 and 2010 budgets, a full evaluation of the costs associated with implementing all major aspects of the Plan. Nevertheless, we continue to believe that it is important to establish performance goals and measures and cost estimates for individual initiatives to determine whether each is accomplishing what is expected and to determine the return on investment.

Finally, we found that the Plan could have unintended effects on hearingslevel performance and on the workloads of other SSA offices. For example, we noted that the Plan's emphasis on rapidly increasing ALJ productivity could affect the workloads of the offices that process claim payments as well as the accuracy and quality of ALJ decisions themselves, which, if appealed, could then increase workloads for the offices that must review them. In fiscal year 2009, SSA's goal was for ALJs to produce an average of 570 decisions annually. In addition, we cautioned that SSA's focus on implementing its hearings-level backlog reduction plan could potentially divert resources from other critical processes, particularly its CDR work—the agency's key activity for maintaining program integrity by ensuring that only those eligible continue to receive benefits. We also noted that the Plan did not identify risks involved in its implementation or any strategies to address them, although SSA officials stated that they had discussed risk management prior to Plan implementation. Therefore, we recommended that SSA move forward to formally assess the risks involved in the Plan's implementation, including those that would hinder the Plan's success and those that could cause adverse effects or trade-offs related to hearings-level performance and other SSA operations. In commenting on our report, SSA agreed with our recommendation and stated that the agency is developing a system that will aid in performing risk analyses. SSA also agreed that it needed to take a look at how an estimated 20 percent increase in ALJ productivity would affect other SSA operations. 10

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 $^{^{10}}$ SSA's success in eliminating the hearings-level backlog by fiscal year 2013 is heavily dependent on increasing ALJ productivity about 20 percent in fiscal years 2010 through 2013 over fiscal year 2008 levels.

SSA Has Reported Progress in Reducing Its Backlog but Faces Additional Challenges

SSA Has Reported Progress in Reducing Its Backlog and Has Introduced Additional Backlog Reduction Strategies Since we issued our September 2009 report, SSA has reported progress toward reducing its hearings-level backlog. In November 2009, SSA released its *Fiscal Year 2009 Performance and Accountability Report*, which noted that the agency had hired almost 150 ALJs—bringing the total number on board as of the end of fiscal year 2009 to 1,238. We previously reported that SSA's goal was to hire enough ALJs to reach a cadre of about 1,450 in fiscal year 2011. According to the *Fiscal Year 2009 Performance and Accountability Report*, SSA's goal is now to have 1,500 ALJs on board by early 2012. SSA also hired over 850 support staff in fiscal year 2009, and plans to hire additional support staff going forward to maintain a national ratio of at least 4.5 support staff to each ALJ.

In a March 2010 news release, SSA announced that it had reduced the number of pending hearings-level cases to 697,437—the lowest number since June 2005. As we have previously noted, the number of pending claims was over 760,000 in fiscal 2008, and SSA's target for 2013 is a reduction to 466,000 claims.

Also, since we issued our report in September 2009, SSA has outlined at least two new strategies to achieve its backlog reduction target. In February 2010, SSA issued its *Annual Performance Plan for Fiscal Year 2011 and Revised Final Performance Plan for Fiscal Year 2010*, in which it identifies several new initiatives to help eliminate the hearings-level backlog. One new strategy is to restore the reconsideration step at DDS offices in the 10 states where—as a pilot project—it had been eliminated in fiscal year 2000 to speed cases through those offices. In essence, claimants in these states who received an initial DDS denial can appeal directly to an ALJ at the hearings level, by passing any further administrative reviews of their claim at DDS offices. SSA plans to reverse that change first in the Michigan DDS, which, according to SSA, has one of

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¹¹Throughout this report we refer to SSA's *Annual Performance Plan for Fiscal Year 2011* and *Revised Final Performance Plan for Fiscal Year 2010* as SSA's annual performance plan.

the worst hearings-level backlogs in the nation. The underlying strategy is to reinstitute the reconsideration process and eliminate unnecessary hearings. While GAO has yet to assess this or other new SSA strategies, it should be noted that our prior work found that the processing of reconsideration claims could be subject to delay at times when the initial claims workload has increased. ¹² For example, a DDS official in one region we visited told us that several DDS offices had either slowed or temporarily stopped conducting reconsideration reviews to concentrate on reviewing initial claims. Should DDS workloads increase significantly in the future, pending claims at the reconsideration level could also increase.

Another new strategy announced in SSA's annual performance plan is to open two centralized units that would assist the hearing offices with various tasks, such as pulling files and writing decisions. SSA also reported that it plans to open 16 new hearing offices and expand 2 existing hearing offices in fiscal year 2010. According to SSA, the number and location of new hearing offices it can open in fiscal year 2011 will be driven by the level of funding the agency receives.

In its 2011 annual performance plan, SSA also reported that it will continue a number of its original 2007 plan initiatives, including those that would expand its adjudicatory capacity. Among these is the plan to use senior attorney adjudicators to issue fully favorable decisions on certain types of claims without a hearing before an ALJ. In fiscal year 2009, senior attorney adjudicators decided over 36,000 cases. The agency now plans to increase that number and implement a virtual screening unit to help identify claims that are good candidates for this program. Regarding the agency's informal remand initiative, on the other hand, it is unclear to us whether the agency plans to continue this initiative beyond 2010. Under the initiative, claims that were previously denied by DDS offices are screened by hearing offices for characteristics that make them good candidates for a favorable determination and then returned to DDS offices where staff take a second look at them—as an intervention to reduce the hearings-level caseload. DDS offices are expected to conduct these reviews outside of regular work hours, using overtime funds that are set aside especially for this purpose. In fiscal 2009, the informal remand initiative resulted in almost 15,000 favorable determinations.

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¹²GAO-08-40.

Meanwhile, SSA has reported discontinuing its e-pulling initiative, a method of automating file assembly to prepare claims for ALJ review, as of August 2009, given a determination by SSA's OIG that it should be fully assessed in terms of its productivity before it is expanded to additional hearing offices. ¹³

SSA Is Confronted with Growing Numbers of Initial Disability Claims

While SSA has achieved some success in reducing its hearings-level backlog, it has experienced significant increases in initial disability claims. As of the end of fiscal year 2009, approximately 780,000 initial claims were pending at state DDS offices; 40 percent more than in fiscal year 2007, according to SSA's 2011 annual performance plan. SSA expects that the number of claims pending will exceed 1 million by the end of fiscal year 2010. Agency officials have attributed this increase to, among other things, a growth in recent applications and to state personnel furloughs, which affected DDS worker productivity. In its *Fiscal Year 2009 Performance and Accountability Report*, SSA reported that about a dozen states had furloughed federally funded state workers who make disability decisions for SSA. The agency also estimated that initial claims will continue to increase and remain at historically high levels for the next several years.

Therefore, in its 2011 annual performance plan, SSA reported that while it continues to consider the hearings backlog to be its top priority, it is also developing strategies to reduce the number of initial claims that are pending. These strategies are outlined as (1) working with states to avoid hiring freezes and furloughs, (2) hiring additional DDS employees, (3) increasing DDS overtime to provide maximum flexibility to address increasing workloads, (4) simplifying policies to make adjudicating claims easier, and (5) adding personnel to staff both federal and state units that handle initial disability claims for areas of the country that have been hit particularly hard. Meanwhile, according to SSA's Fiscal Year 2009 Performance and Accountability Report, the agency has already hired 2,600 new DDS employees. In April testimony of this year, the SSA Commissioner also reported that the agency plans to hire about 1,400 additional DDS employees using fiscal year 2010 funds. It is our understanding that the agency expects to provide more information in the future on its new strategies for handling this impending workload.

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¹³This decision and the OIG's determination were reported in SSA's *Fiscal Year 2009 Performance and Accountability Report*.

¹⁴New applications are expected to reach 3.3 million in fiscal year 2010.

SSA Faces a Backlog of CDRs

SSA has also experienced significant increases in its medical CDR workload. As we have previously reported, these reviews are SSA's key means of ensuring that only those who are 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 disability eligibility requirements. SSA has reported that although it performed nearly 40,000 more CDRs in fiscal year 2008 than in fiscal year 2007 (when it conducted 210,000), the overall number of CDRs conducted annually had decreased by approximately 65 percent between fiscal years 2004 and 2008. As a result, the number of pending CDRs has increased. SSA's OIG reported in March 2010 that at the end of fiscal year 2009, SSA had a backlog of almost 1.5 million CDRs. 15 Even with the increase in performance that SSA expects to achieve in fiscal years 2010 and 2011, the OIG estimated a CDR pending workload of over 1.5 million through 2011. As a result, SSA could potentially pay millions of dollars in benefit payments to individuals who are no longer eligible.

In its fiscal year 2011 budget, SSA requested \$796 million to conduct program integrity activities that include CDRs. While increased funding should help, we noted in the past that CDRs may be delayed or deferred when DDS offices have to deal with increasing numbers of initial claims. ¹⁶ For example, in fiscal year 2009, SSA reported that it had scaled back the number of CDRs conducted due, among other things, to increases in other competing workloads.

Concluding Remarks

Over the years, the disability claims workload has been difficult to manage for a number of reasons, including budget constraints and staffing challenges. SSA's backlog reduction plan, with its many initiatives to remedy the severe backlog at the hearings level, may represent one of the agency's most ambitious efforts to date to tackle this difficult workflow. Since the plan was launched, the agency has, indeed, made a significant dent in the backlog of cases. It remains to be seen, of course, whether SSA

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¹⁵Social Security Administration, Office of the Inspector General, *Full Medical Continuing Disability Reviews: Evaluation Report*, A-07-09-29147 (Mar. 30, 2010). According to the OIG's report, SSA defines this "backlog" as CDRs due and selectable that are not able to be released for processing or are in process, but resources are not sufficient to complete them in a timely fashion.

¹⁶GAO, Social Security Administration: Service Delivery Plan Needed to Address Baby Boom Retirement Challenges, GAO-09-24 (Washington, D.C.: Jan. 9, 2009).

can continue to make enough progress to reduce the number of pending cases to acceptable levels by 2013.

The agency has not lacked for new strategies to deal with its backlogs. However, we have noted that it is important that these strategies should rest on a foundation of thorough and comprehensive planning, and that they include performance goals and measures, and analyses of the costs and risks to the system as a whole. Urgency can dictate a pattern of attacking workloads at one or another phase, only to be confronted with a backflow elsewhere in the pipeline. For example, the agency's latest announcement for stemming the flow of cases to the hearings level by reinstituting reconsiderations in DDS offices in 10 states could create or increase backlogs at these offices.

DDS offices are responsible for several workloads, including conducting CDRs, which will increase, according to SSA's fiscal year 2011 budget request. In addition, some DDS offices also participate in SSA's informal remand initiative. Such multiple workloads are likely to grow larger with increases in initial claims receipts and pose significant challenges, not only for the 10 states where reconsiderations will start up again, but for other DDS offices as well. In fact, given the current trajectory in DDS workloads, SSA's most significant backlogs could shift from the hearings level to DDS offices, where large numbers of both initial and reconsideration pending claims could accumulate.

Certainly it is good news—as noted in the agency's 2011 annual performance plan—that SSA will begin to focus on reducing the number of initial claims that are pending in DDS offices. The new five-part strategy cited for doing so has yet to be fully detailed. At this point, however, successful management of SSA's disability workloads will require an integrated and comprehensive plan that considers the entire disability process as well as how actions at each stage of the process affect other offices.

Mr. Chairmen, this concludes my prepared statement. I will be pleased to answer any questions that you or other Members of the Subcommittees may have at this time.

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GAO Contact and Staff Acknowledgments

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Related GAO Products

Social Security Disability: Additional Performance Measures and Better Cost Estimates Could Help Improve SSA's Efforts to Eliminate Its Hearings Backlog. GAO-09-398. Washington, D.C.: September 9, 2009.

Social Security Administration: Further Actions Needed to Address Disability Claims and Service Delivery Challenges. GAO-09-511T. Washington, D.C.: March 24, 2009.

High-Risk Series: An Update. GAO-09-271. Washington, D.C.: January 22, 2009.

Social Security Administration: Service Delivery Plan Needed to Address Baby Boom Retirement Challenges. GAO-09-24. Washington, D.C.: January 9, 2009.

Social Security Administration Field Offices: Reduced Workforce Faces Challenges as Baby Boomers Retire. GAO-08-737T. Washington, D.C.: May 8, 2008.

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