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**Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies**



Statement for the Record

**Reducing the Disability Backlog at the Social Security
Administration**

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Good morning, Chairman Obey, Congressman Walsh, and members of the Subcommittee. It's a pleasure to be here today, and I thank the Subcommittee for the invitation to testify, and for your commitment to the efficient and accurate operation of the Social Security Administration (SSA). Efficiency and accuracy in SSA's operation is of course more than an issue of preventing the waste of appropriated funds; it is a critical public issue affecting millions of Americans every day. Like this Subcommittee, and like SSA itself, my office is committed to doing all it can to confront the many challenges that SSA faces in bringing critical benefits to the people who rely on them for their well-being.

Of the challenges inherent in administering the world's largest social insurance program, SSA currently faces none greater than the backlog of disability claims. SSA's data as of the end of January 2008 indicate that the number of cases waiting for a hearing decision was 751,767, leading to average waiting times for FY 2008 of 499 days. This waiting time for appeals is unacceptable, and despite SSA's efforts over the past several years, the delays have actually increased, rather than decreased. Since taking office, Commissioner Astrue has renewed and reinvigorated SSA's efforts to reduce these backlogs. My office is working closely with him in this regard, and I am confident that through our efforts, and with Congress' assistance, we will be able to make significant headway.

I am particularly pleased that in attempting to reduce the backlog, Commissioner Astrue is cognizant of the need to maintain the integrity of the process. From the OIG's inception in 1995, we have sought to help SSA strike the balance between service and stewardship. Since that time, we have succeeded in helping SSA maintain its reputation for quality and responsive public service, while significantly improving the accuracy and integrity of SSA's programs. Unfortunately, the exception to SSA's service reputation is the disability backlog. Action can and must be taken to reduce, and then eliminate, the lengthy delays faced by disability applicants, without compromising the integrity of the program.

To address this challenge, SSA must address problematic issues in a number of areas:

First, the structure of the SSA components that oversee the disability process has already been studied, streamlined, and improved through a joint effort between SSA and the OIG, and I'll describe that effort in detail in a moment.

Second, issues of staffing, productivity, and the use of technology, particularly in SSA's 140 hearing offices must be addressed. Are the hearing offices adequately and appropriately staffed, with an efficient ratio of support personnel to judges, to ensure that they are performing at maximum efficiency? Are hearing offices, and Administrative Law Judges (ALJ) in particular, operating at acceptable and consistent levels of productivity? And is SSA making full use of available technology, from case management systems to electronic disability folders, to improve the disability process and hearing office performance? The OIG has completed audit work in these areas, and is both performing and planning additional work, and I will describe those efforts as well.

Third, SSA, with the help of the OIG and Congress, must continue to seek new and innovative ways to improve the disability process and reduce waiting times. Over the years, various plans have been introduced and piloted or implemented with varying degrees of success. Under a new Commissioner, new ideas must be brought forward to improve critical service delivery to disability applicants.

Finally, I spoke a moment ago of stewardship, and in this vein, any plan for improvement in the disability adjudication process must include mechanisms to ensure that the evidence being used to adjudicate claims is genuine and that claims are being adjudicated fairly, accurately, and consistently. Again, my office has performed work in this area that should assist the Commissioner in his plans to reduce the backlog, and more work is in process.

With all of these issues in mind, we are working closely with SSA on new and innovative approaches to old problems, and I applaud the Commissioner for his dedication and ingenuity. I'd like to address each of these issues to give the Subcommittee a comprehensive understanding of the OIG's work in these areas and our role in reducing the disability backlog.

Management Structure

As I mentioned earlier, one of Commissioner Astrue's first actions upon taking office was to examine the management structure of SSA.

Prior to Mr. Astrue's arrival at SSA, the Agency had for some years been planning and implementing its Disability Service Initiative (DSI), a comprehensive redesign of the disability determination process. The development of DSI had altered several aspects of the Agency's structure, particularly within the Office of Disability and Income Security Programs (ODISP). Since Commissioner Astrue would proceed with some, but not all, aspects of DSI, it was not clear that the current management structure remained appropriate to his plans.

To that end, he requested that the OIG conduct an evaluation of ODISP, the component responsible for directing and managing the planning, development, and issuance of operational regulations, standards and instructions for the OASDI and SSI programs. He requested that this review be conducted in a 6-week timeframe, that it be as comprehensive as possible, and that it include recommendations for any restructuring that the OIG thought would better enable SSA to confront the disability backlog.

That review determined that ODISP was not focused solely on planning and program policy issues, but was responsible for several operational functions that detracted from its primary policy function. In addition, we found communication lacking, both within ODISP and between ODISP and other SSA components. We also believed that some functions within ODISP might be better aligned to improve coordination and

productivity, and that some operational functions appeared to be inconsistent with ODISP's mission and might be better managed elsewhere in SSA.

In light of our findings, we provided the Commissioner with a detailed list of recommendations for the restructuring of ODISP, the redistribution of certain ODISP functions, and the centralization of SSA's policy function, which was in many ways shared between ODISP and SSA's Office of Policy, creating unnecessary redundancy and confusion.

SSA generally agreed with our recommendations and made sweeping changes to the management structure of ODISP in particular, and of other components. These changes have laid the framework for improvements to multiple SSA processes, including the disability adjudication process.

Staffing, Productivity, and Technology

Staffing levels, the productivity of staff, and efficient use of technology are key elements in improving the disability appeal process. If staffing is insufficient, and if productivity is substandard or inconsistent, timeliness and accuracy (service and stewardship) both suffer. Moreover, providing additional funding and resources to SSA creates an obligation to use that funding wisely. All staff should have access to appropriate technology to maximize performance and accuracy. With this in mind, the OIG has conducted several audits to assist SSA.

Total case processing time is not only a reflection of the efficiency of SSA's hearing offices, but of the time it takes for initial claim determinations to be made in the State Disability Determination Services (DDS) that make these initial decisions. In 2004, we conducted an audit entitled *Disability Determination Services' Claims Processing Performance*, intended to identify factors that may have resulted in differing levels of performance at selected DDSs.

We selected 10 DDSs according to a formula designed to provide a relevant sample that would include both high- and low-performing offices. In reviewing each of the 10, we discovered that poor-performing offices were consistently those that experienced the most attrition, the fewest disability examiners in relation to total staff, and those that purchased consultative examinations with the most frequency, rather than waiting for medical documentation from the treating physician that is often delayed.

We made several recommendations, including that SSA continue to work with the States to resolve these delaying factors, initiate a staff model mix with an optimal ratio of examiners to total staff, and initiate outreach efforts to speed the receipt of treating physician evidence.

Of course, the disability backlog lies primarily in the hearing and appeals process rather than in the initial determination process. Looking at those staffing and productivity issues we released another audit report in 2004 entitled *Best Practices in the Highest*

Producing Hearing Offices. We found that an earlier practice of soliciting and identifying best practices in hearing offices had resulted in 24 best practices that hearing offices had found helpful in improving performance. That practice, however, had been eliminated, and instead, in 2002 and 2003, the former Office of Hearing and Appeals (OHA) issued two “best practices” memoranda, the first listing 191 best practices, the second list 271. The sheer numbers of these best practices made it difficult for hearing offices to determine which to implement, and some of the best practices were contradictory.

We recommended that OHA (now the Office of Disability Adjudication and Review, or ODAR) return to its prior practice of soliciting and distributing a shorter, clear list of best practices. We also outlined in our own report the most commonly-used and apparently successful practices, and recommended that OHA share that information with its hearing offices. SSA agreed with our recommendations.

Turning from best practices to support staff issues, in 2005 we issued an audit report entitled *The Effects of Staffing on Hearing Office Performance*. In that audit, we found that during the 5 previous years, the number of dispositions per day per ALJ had improved (from 2.03 to 2.40 cases), yet timeliness had declined (from 316 to 391 days). While some factors contributing to this apparent contradiction were beyond SSA’s control (such as an ALJ hiring freeze and an increase in claims) the decline in timeliness could result to some extent from SSA’s allocation of staff. We found that while the national average staffing ratio was 4.7 support staff for each ALJ, offices ranged from a national low of 3 support staff per ALJ to a high of 18.5 support staff per ALJ. Of the 76 hearing offices with a ratio *below* the national average of 4.7 to 1, 63% had disposition rates below the national average.

This suggested that disposition rates and timeliness were related to staffing levels. While increasing staff in every hearing office was not an option, making sure that staffing levels were consistent surely was. We recommended that SSA establish and implement an ideal staffing level ratio for hearing offices nationwide, and provide contract-based file assembly assistance to those offices whose disposition rate remained below average even with appropriate staffing ratios. SSA agreed with our recommendations, and it is our hope that they will make these recommendations part of their initiative to hire new ALJs.

Our most recent review in this area examines ALJs’ caseload performance, an issue that goes hand-in-hand with the staffing of hearing offices and consistency among hearing offices. In this audit, we sought to evaluate the effect of varying ALJ caseload performance on the disability claim process and the backlog. We found wide variations in ALJ performance among hearing offices. In fact, during fiscal year 2006, ALJs processed cases ranging from a low of 40 per ALJ to a high of 1,805. Further, about 30 percent of ALJs processed fewer than 400 cases per year. This is a cause for concern, as the agency has indicated an expectation of at least 500 cases per year for each ALJ. We concluded that if the performance of ALJs at the low end of the spectrum is permitted to continue, this will continue to have a negative effect on the disability backlog.

We further surmised that the lack of any formal performance accountability process for ALJs is a key reason for this inconsistency in performance and in the resulting negative effect on the backlog. Conflicting opinions between the Agency and the union representing the ALJs as to the propriety of establishing ALJ performance standards has thus far frustrated attempts to impose such standards. We recommended that SSA establish standards, examine offices where ALJs have high productivity and issue best practices based on the operation of those offices, and identify offices where ALJs have low productivity to ascertain the causes and take corrective actions. SSA agreed with our recommendations.

We also have a related audit in progress, undertaken at the request of Congressmen Michael McNulty and Sam Johnson. We have begun a review entitled *Administrative Law Judge and Hearing Office Performance*. In that study, we are examining factors that affect ALJ and hearing office performance, ODAR management tools, and SSA initiatives aimed at increasing ALJ productivity. We believe that this audit may provide the Commissioner with important recommendations to improve hearing office performance and productivity, and will provide Congress with critical information with respect to funding and staffing levels.

To make the most of better distributed and more productive staff, it is critical that full advantage be taken of available technology. Case management software is critical to efficient operation, and the use of electronic folders can eliminate lengthy delays in adjudications caused by searching for and transporting millions of claims and hearing folders.

SSA's Electronic Disability, or e-Dib, initiative uses technology to improve performance in the disability programs. Specifically, the goals of eDib are to expand use of the Internet for completing disability-related forms, to automate the disability claims intake process, to provide electronic access to disability-related information and ultimately to produce a paperless disability process. Another important aspect of this process is the use of technology to track disability appeals and provide helpful and accurate management information. In a 2001 audit, we found that the Hearing Office Tracking System (HOTS), the predecessor to the current Case Processing Management System (CPMS), had inaccurate data and lacked consistent management controls over data inputs. CPMS was established, in part, to improve data reliability and management controls.

In 2006, our Office of Audit examined CPMS to assess its ability to improve workload management at hearing offices. We found that unlike HOTS, CPMS management reports were accurate, but also found that ODAR management did not always use CPMS reports in their caseload management, particularly with respect to stagnant cases, identified in CPMS' "No Status Change" indicator. We made recommendations to improve the use of CPMS as well as to more effectively use CPMS to identify potentially violent claimants, and SSA agreed with our recommendations.

A year later, we conducted an audit entitled *Management's Use of Workload Status Reports at Hearing Offices*, which was designed to assess the "No Status Change" indicator. That indicator can be attached to a case by CPMS at 12 different stages of case processing, from "Master Docket," where the case is first entered into CPMS, to "Mail," where the final decision is sent to the claimant. The number of days that must elapse before the "No Status Change" indicator is attached (and the case appears in the "No Status Change" management report), varies for each of the 12 stages.

We examined the workload status reports to determine where bottlenecks occurred that would significantly delay case adjudications and identified the three most significant obstacles to timeliness. We also found that more than 50% of cases were not being tracked at all, including hundreds of thousands of unworked cases. We made several recommendations to SSA to improve its processes to take full advantage of CPMS, and SSA agreed with our recommendations.

Most recently we have initiated a review entitled *Timeliness of Medical Evidence at Hearings Offices*. On October 29, 2007, SSA issued a notice of proposed rulemaking, which proposed revisions of policies and standards affecting the timeliness of medical evidence. This notice stated that untimely medical evidence causes ALJs to "...reschedule the hearing, which not only delays the decision on that case, but also delays the hearings of other individuals."

The Commissioner requested that the OIG determine what information is available to demonstrate that medical evidence at the hearing office level has been untimely. Our current evaluation is an expedited review of how untimely medical evidence can delay the hearings process, whether potential bottlenecks are being monitored by management, and the overall integrity of that management data.

Finally, I want to elaborate on my earlier reference to SSA's e-Dib initiative. Many aspects of e-Dib should have brought about significant improvements in the processing time of disability appeals. One such tool was the creation of electronic hearing folders that eliminates the often-lengthy delays incurred in locating and shipping folders around the country. Surprisingly, this and other e-Dib measures appear to have only marginally improved processing times or reduced the backlog. We are looking at ways to examine this phenomenon in order to supply SSA with recommendations on how e-Dib might be better used to improve performance.

New Approaches

Earlier, I mentioned DSI, the disability redesign plan created by the previous Commissioner of Social Security, which had just begun implementation when Commissioner Astrue took office. He took a hard look at DSI, and requested the OIG's input.

The OIG undertook the organizational review of ODISP that I described earlier, but we also conducted a review of one promising aspect of DSI, Quick Disability Determinations

(QDD), which was already operational in SSA's Region I and had shown some success. QDD claims are initial disability claims that are electronically identified by a predictive model as involving a high potential that the claimant is disabled, for which evidence can be easily and quickly obtained, and where the case can be processed within 20 calendar days of receipt. In our audit, we set out to determine whether cases selected for QDD were processed within the guidelines established by SSA, and to identify any possible improvements to the QDD process before it was expanded to SSA's other regions.

We found that QDD cases were generally processed within guidelines, but that SSA should consider improvements to the case selection process before expanding the program to other regions. Specifically, we found that while medical disability determinations were made quickly, non-medical case development was delaying payment to a significant degree. We also found that prioritization of QDD claims was problematic in that it did not take into account the 5-month waiting period for title II disability claims. Many such claimants were approved through QDD despite the fact that they would be unable to receive benefits for several months due to the waiting period. Meanwhile, title XVI claimants, who are eligible to be paid immediately, received no priority in the QDD queue, nor did title II beneficiaries nearing the end of their waiting period.

We recommended that SSA seek ways to accelerate the non-medical processing of claims to avoid reducing the benefit of the QDD process, and seek ways to prioritize QDD claims to avoid allowing claims that cannot yet be paid while delaying claims eligible for immediate payment.

We have a number of additional audits planned or in progress that we feel will assist SSA in reducing the disability backlog. These include studies of whether video hearings have had an impact on the backlog and how effectively hearing offices process cases remanded by the Courts. We will also continue our work on ALJ and hearing office performance and conduct an audit in which we study aged claims at the hearing level to identify actions SSA can take to reduce the backlog of these cases.

Accuracy and Integrity

As I mentioned earlier, it is critical that in improving processing time and productivity, we not lose sight of accuracy and integrity. One stewardship initiative that has been a resounding success is the Cooperative Disability Investigative (CDI) program. Designed in the 1990s as a joint effort among the OIG, SSA, State DDSs, and local law enforcement agencies, the CDI program's mission is to detect fraud early in the disability adjudication process—at the time of initial application. Nineteen CDI units in 17 states receive fraud referrals from the State DDS. DDS staff, the experts in reviewing initial disability claims, are in the best position to identify possibly fraudulent benefit claims. They refer the case to the CDI unit, where it is further reviewed by a DDS examiner assigned to the unit. If it appears that fraud may have occurred, the examiner then hands the case off to the investigation team (an OIG Special Agent, who acts as team leader, and two State or local law enforcement officers).

The CDI program, in addition to preserving SSA funds by detecting fraud before benefits are ever paid, removes from the determination and appeal processes cases that will clearly never be allowed. In turn, this preserves resources in the DDS and in ODAR that can be used to adjudicate legitimate cases. During fiscal year 2008 to date, CDI has resulted in more than \$110 million in savings to SSA and other agencies. This successful program, which has grown from five to 19 units since its inception, is limited only by funding, and has been heralded as a success by GAO, which recommended placing CDI units in all 50 states.

Finally, there is no more important aspect to stewardship than Continuing Disability Reviews (CDR). The primary focus of today's hearing is the process by which disability claims are processed, adjudicated, and either allowed or denied. CDRs, however, are the only means (other than claimants who volunteer information that will stop their benefits) by which SSA learns that beneficiaries' disabling conditions may no longer preclude them from working. Ensuring that Social Security funds do not go to initial applicants who are not entitled is no more important than ensuring that beneficiaries already on the rolls remain entitled to benefits. I applaud the Subcommittee's support of CDRs and redeterminations and encourage your continued support in this area.

I have a very productive working relationship with Commissioner Astrue, and I know that SSA, like the OIG, is dedicated to improving service and reducing the disability backlog, ever mindful of the need to preserve stewardship and integrity in the process. I welcome the Subcommittee's interest, dedication, and support of our efforts, and look forward to continuing to work with you to deliver the right benefits to the right people with as little delay as possible. Thank you, and I'd be happy to answer any questions.

PATRICK P. O'CARROLL, JR.
Inspector General
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Patrick P. O'Carroll, Jr. currently serves as the third Inspector General (IG) for the Social Security Administration (SSA), having been appointed to that position on November 24, 2004. Under his direction, the SSA Office of the Inspector General (OIG) inspires public confidence in the integrity and security of SSA's programs by conducting independent and objective audits, evaluations, and investigations. Since assuming the SSA OIG leadership, Mr. O'Carroll has intensified the OIG's efforts to identify and prevent fraud, waste, and abuse in SSA programs through the institution of innovative and collaborative approaches to the office's core functions and the management and development of human and technological resources.

The results of these efforts can be seen in the OIG's most recent achievements. In FY 2007, the OIG's investigators reported over \$380 million in investigative accomplishments through SSA recoveries, restitution, fines, settlements, judgments, and projected savings. OIG auditors issued 108 reports with recommendations identifying over \$3.1 billion in Federal funds that could be put to better use and \$1.2 billion in questioned costs. And OIG's attorneys reported over \$4.3 million in civil monetary penalties and assessments.

In addition to directing an OIG workforce of over 600 auditors, attorneys, investigators, and support personnel nationwide, Mr. O'Carroll also chairs the Investigations Committee of the President's Council on Integrity and Efficiency (PCIE)—an organization of Presidentially appointed Inspectors General who address issues that transcend individual Government agencies and increase the professionalism and effectiveness of IG personnel throughout the Federal Government. Under Mr. O'Carroll's leadership, the Committee seeks new ways to improve investigative functions, establish investigative guidelines, and promote best practices and training opportunities for thousands of agents in the Federal IG community.

Prior to his appointment as Inspector General, Mr. O'Carroll held a number of increasingly responsible positions in the SSA OIG organization, including Assistant Inspector General for Investigations and Assistant Inspector General for External Affairs. Mr. O'Carroll also brought to the OIG the benefits of his 26 years of experience with the United States Secret Service.

Mr. O'Carroll received a B.S. from Mount Saint Mary's College in Emmitsburg, Maryland, and a Master of Forensic Sciences from the George Washington University, Washington, D.C. He also attended the National Cryptologic School and the Kennedy School at Harvard University. Mr. O'Carroll is a member of the International Association of Chiefs of Police and the Association of Government Accountants.