

Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration

September, 13, 2007

This report presents the Social Security Administration's (SSA) plan to reduce the hearings backlog, as well as current and planned initiatives to improve the disability process. The report lays out SSA's vision for reducing the Agency's hearings backlog and improving service to the public.

Introduction

For more than half of a century, Social Security has helped disabled workers and their families cope with the loss of income due to a severe disability. Unfortunately, many of today's applicants face an uphill battle simply to get a hearing before an Administrative Law Judge (ALJ). For some, the long wait for their day in court leads to homelessness and the loss of family and friends. Sadly, people have died waiting for a hearing.

SSA's disability programs have grown significantly over the last 5 years and will continue to do so at an increasing rate as aging baby boomers reach their most disability-prone years. At the same time, Congress has added new and non-traditional workloads, such as taking Medicare prescription drug subsidy applications, to SSA's responsibilities.

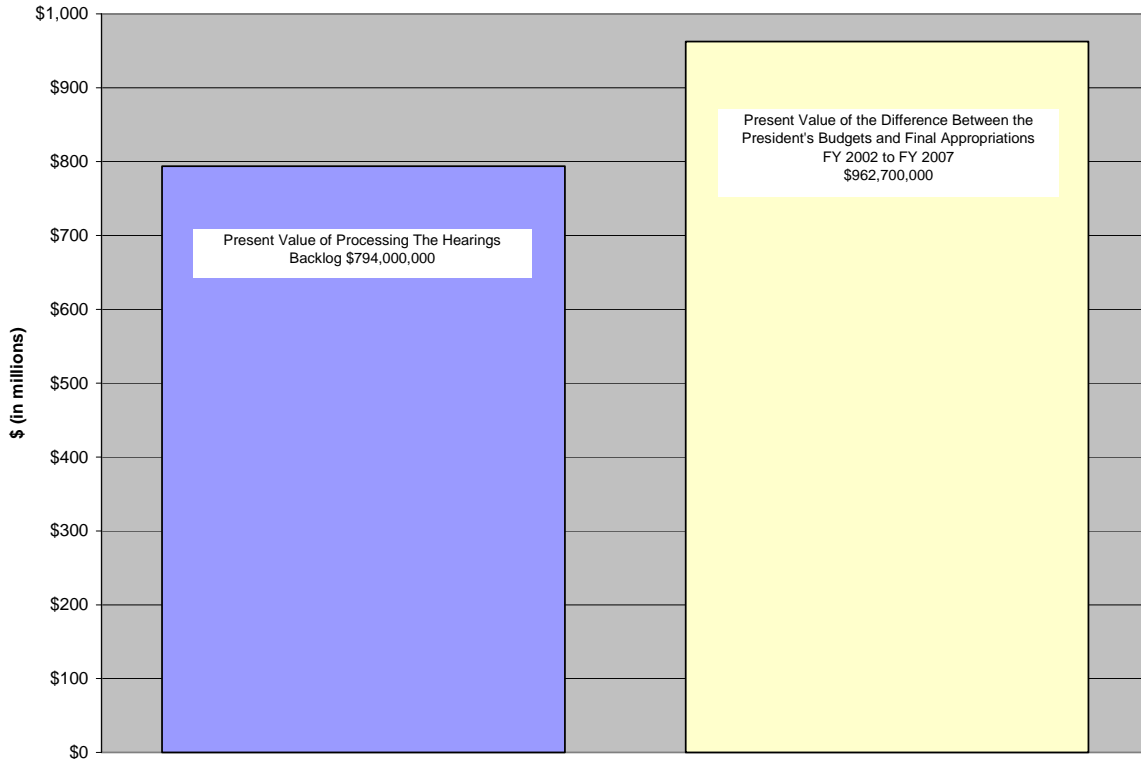
As daunting as demographic changes or new responsibilities are for any agency, SSA is known for its can-do attitude with respect to challenges and is respected for its management of programs paying out over \$650 billion per year in benefit payments. Yet, in the last few years, the disability hearings backlog has grown; the Agency has performed fewer program integrity activities, such as continuing disability reviews (CDR) and Supplemental Security Income (SSI) redeterminations; and staffing levels are at their lowest since 1972 – before the SSI program began. Current staffing is nearly 28,000 full-time equivalencies (FTEs) or 32.7 percent below the historical high in 1977 (87,277).

The simple truth is that SSA requires a certain level of resources to operate effectively. Because the Agency has such a large infrastructure, including over 1,400 field and hearing offices in cities and towns across America, mandatory cost increases, such as rent, guards, postage, pay raises and employee benefits, require a minimum administrative budget increase every year of approximately \$300 million.

Nonetheless, Congress has appropriated on average about \$150 million less each year than the President has requested since 2001. As displayed in Chart 1, if SSA had received the full President's budget for fiscal year (FY) 2002 through FY 2007, it would have had available more than the cost of processing SSA's hearings backlog.

September 13, 2007

Chart 1
SSA Has Not Received the Resources Needed to Address the Growing Hearings Backlog



As a result, the Agency is struggling to balance its new responsibilities and its traditional work within tight resource constraints. Unfortunately, because SSA has struggled in this way for several years, it will take time to get back on track with its responsibilities and workloads.

Under any funding scenario in FY 2008, SSA has limited remaining resources to use to drive down the hearings backlog. In fact, under the House or Senate bills, SSA has less discretionary money to spend in FY 2008 than in FY 2007. The FY 2007 enacted level enabled SSA to narrowly avoid employee furloughs that would have resulted from the lower Senate mark of that fiscal year. In FY 2008, field offices will be unable to replace employees who leave. In the hearings operation, the only significant hiring will be for up to 150 ALJs.

This constraint may seem counterintuitive given the increases the House and Senate have provided for SSA (\$100 million more than the President's budget in the House bill and \$125 million more in the Senate Committee bill). However, given that SSA typically experiences about \$300 million per year in inflationary increases in the previously mentioned mandatory costs and plans to increase program integrity work in FY 2008 to \$477 million (\$264 million in the base and \$213 million above the cap), the amount of money available to the Agency to invest in additional workload processing is very limited. While SSA is grateful for congressional support of increased program integrity as a cost-effective stewardship activity, it leaves the Agency no new resources to help reduce the hearings backlog. Furthermore, there

will also be significant growth in initial disability claims and some of the other less visible workloads the Agency processes in support of beneficiaries.

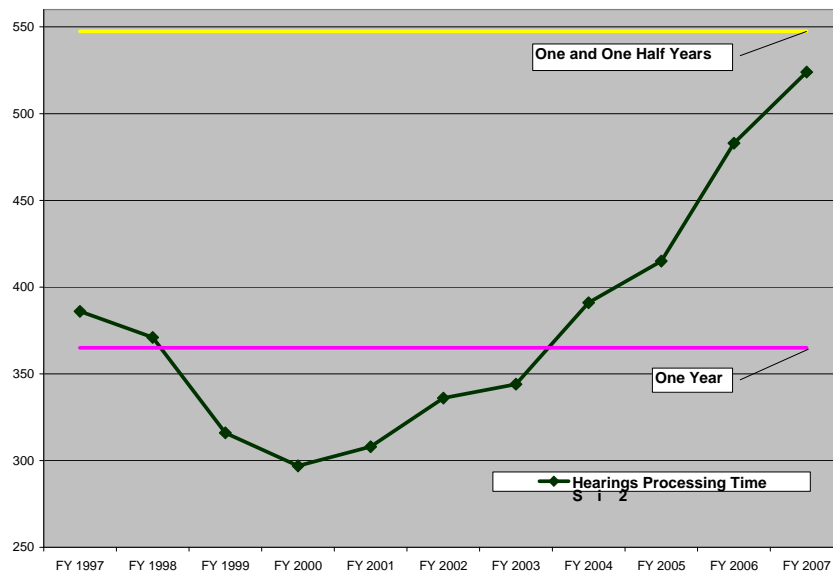
This is America, and it simply is not acceptable for Americans to wait years for a final decision on a claim. The Agency is overdue for a change, and is committed to a process that is as fair and speedy as possible.

This report begins with some background on SSA's long-standing and intractable hearings backlog. Then, it highlights why the Agency is implementing some parts of the disability service improvement initiative (DSI), but suspending others at this time. Finally, the report presents a number of important steps SSA has taken, will take, or is contemplating taking in the near future to better manage Agency workloads.

Background on Hearings Backlog

As illustrated in Chart 2, in FY 2007, nearly a year and a half will pass on average before a claimant knows the outcome of his or her hearing request. This average delay is an increase of more than 200 days from the time it took the Agency to process a hearing in FY 2000.

Chart 2
The Number of Days it Takes to Process a Hearing Has Grown Over the Years



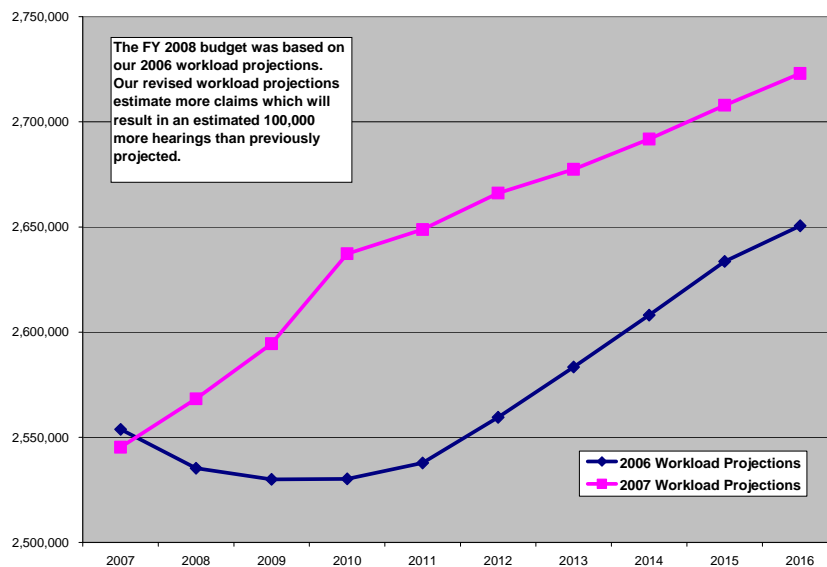
The major reason for the increase in processing time is the hearings backlog. SSA generally processes cases on a first-in first-out basis. As cases age, they take more time to review, and new medical evidence may be presented. Therefore, in addition to improving the process, the most immediate way to decrease processing time is to decrease the hearings backlog.

The backlog growth SSA has seen in the last few years results primarily from a lack of resources, but also from demographics. As more initial disability claims are received and processed, more requests for hearings are generated. In FY 2004 through FY 2006, SSA received on average

2.6 million disability claims annually that required decisions. Hearing offices have received an average of over 564,000 Titles II and XVI disability hearing requests each year from 2002 through 2006, a significant increase from the annual average of almost 472,000 hearing requests in 1997 through 2001. As these figures show, over the 5-year period from 2002 through 2006, SSA received each year over 90,000 more requests for Titles II and XVI hearings than the Agency annually received during the period from 1997 through 2001.

Chart 3 graphs the projected number of initial disability claims SSA will receive through FY 2016. These figures, developed by SSA's actuaries, are updated yearly and show the demographic trend the Agency faces – with the majority of the baby boom generation already in the most disability-prone age bracket, SSA will experience an upward shift in the number of disability claims and hearings filed. Also of note is that the estimates developed in 2007 are higher than those developed in 2006.

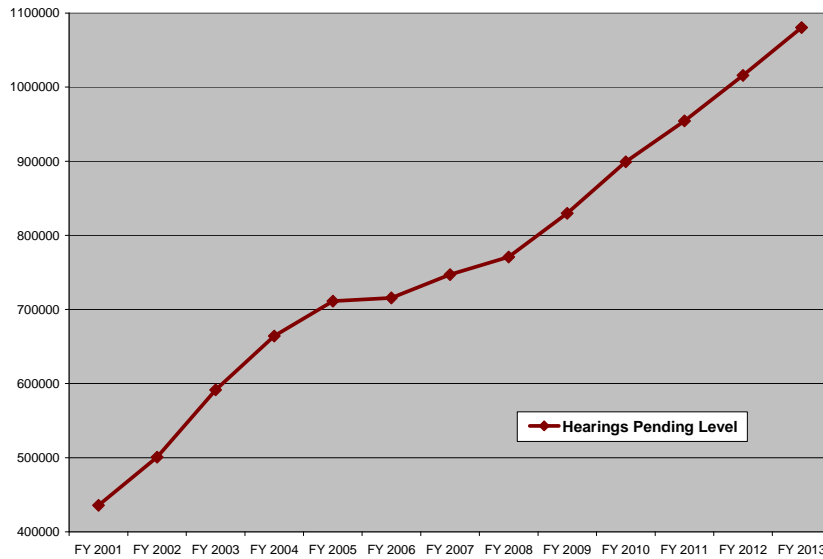
Chart 3
The Projected Number of Initial Disability Claims Received Annually Will Continue to Rise in the Future



This upward trend, as well as other factors such as probable limitations on SSA resources to process these claims, and the projected impending increase in filings for retirement benefits as the baby boomers age, will continue to place an even greater strain on the system.

If the Agency does not implement the plan to improve the current hearing process, SSA estimates the number of hearings pending will approach 1.1 million in FY 2013 as shown in Chart 4.

Chart 4
If SSA Maintains the Status Quo, the Disability Hearings Backlog
Will Top 1 Million in FY 2013



Why SSA is Implementing Some Parts of DSI but Suspending Others

SSA continually explores ways to improve service to some of the most vulnerable in our society. Under the DSI pilot, the Agency adopted a package of changes to the administrative review process for initial disability claims filed in the Boston Region on or after August 1, 2006, expecting that the changes would improve the accuracy, consistency and timeliness of decision-making throughout the disability determination process.

SSA has been carefully monitoring the outcomes from DSI, and the Agency already has data that some components of the pilot enhance the ability to make timely and accurate disability determinations. SSA plans to expand these successful components to the disability process across the country. For example, the Agency recently published a final regulation to roll out nationally the Quick Disability Determination (QDD) process in order for State agencies to expeditiously award benefits in appropriate circumstances. Experience to date in the Boston Region also demonstrates that the administrative costs associated with other components of DSI, specifically the Office of the Federal Reviewing Official (FedRO) and the Office of Medical and Vocational Expertise (OMVE), are greater over the foreseeable future than originally anticipated. SSA does not yet have sufficient results to fully evaluate the potential improvements in program efficacy that are the goals of the FedRO and OMVE. Therefore, the Agency recently published a notice for public comment proposing to suspend the FedRO process in order to reallocate resources associated with that process to the hearings process where hundreds of thousands of claimants' cases are currently backlogged.

Experience from DSI

One early success is the QDD tool. Experience in the Boston Region demonstrates the effectiveness of the QDD process. QDD uses automated tools to screen cases, and allows SSA to fast-track cases that are most likely to be allowed. To date, the State Disability Determination Services (DDSs) in the Boston Region have decided 97 percent of these cases within 21 days and they have an average decision time of 11 days. About 85 percent of these cases have been allowed during the initial review, and more have been allowed with additional documentation.

SSA plans to accelerate the implementation of the QDD process across the country. On September 6, a final rule was published to expand QDD nationwide (Amendments to the Quick Disability Determination Process, NPRM, Federal Register, Vol. 72, No. 172, p. 51173, Docket No. SSA 2007-0032, RIN 0960-AG47).

Furthermore, SSA plans to build on the success of the QDD process because it is both efficient and compassionate to do so. To date, the majority of QDD cases are cancer cases because the model does not yet cull a wide enough variety of impairments. Currently, QDD cases constitute only 2.9 percent of cases, but the Agency is committed to pushing the number of cases that can be decided through this process as high as it can possibly go while maintaining accuracy.

Another area where SSA plans to implement components of DSI across the country is in the hearings and appeals stages of the disability determination process. The Agency plans to include many of the hearing level procedures implemented under DSI and now in place for disability cases in the Boston Region into parts of 404 and 416 of the rules to reduce the hearings backlog, including time frames for submitting evidence to the ALJ and closing the evidentiary record at the time of the ALJ decision. These changes will expand those rules nationwide and apply them to hearings on both disability and non-disability matters. SSA has also amended the rules governing the final level of the review process to make the role of the Decision Review Board (DRB) more analogous to that of an appellate court reviewing the decision of a trial court (Amendment to the Administrative Law Judge, Appeals Council, and Decision Review Board Appeals Levels (3401P), Proposed Rule, RIN No. 0960-AG52, Received date: 7/9/2007).

However, the FedRO and the OMVE are two aspects of DSI that the Agency has proposed to suspend for new claims. The FedRO was intended to replace the current State agency reconsideration process as the initial level of appeal. SSA recognizes that there has been a learning curve with regard to adjudicating cases in the DSI process. Statistics show that through July 27, 2007, the FedRO received 14,756 disability claims and issued 3,414 dispositions.

The OMVE was intended to provide a central source of access to medical and vocational expertise across all levels of adjudication and to improve the quality of such expertise available to SSA adjudicators. SSA will consider using the OMVE in a more limited role to develop and manage a national registry of medical, psychological, and vocational experts to assist disability adjudicators in developing and clarifying information within the record. The Agency has proposed testing different methods of handling reconsideration at the Federal level, if it has the resources in the FY 2008 budget to do so (Proposed Suspension of the Federal Reviewing Official Review Level, Changes to the Role of the Medical and Vocational System and Future

Demonstration Projects, Proposed Rule (3394P), RIN No. 0960-AG53, Received date: 7/11/2007).

SSA will continue to collect data and evaluate DSI, in line with its commitment to outstanding service and to continuous improvement. Once this evaluation is completed and alternative approaches analyzed, the Agency will make a decision whether to reinstate the processing of new claims at the FedRO or to pursue an alternative approach to improving the disability determination process. For reinstatement to occur, there must be adequate resources available and compelling evidence showing the process is efficient and effective. At this time, the focus is on effective initiatives to reduce the hearings backlog.

Hearings Backlog Reduction Plan

SSA has already taken a number of important steps to better manage its workloads, and the Agency is planning to take additional steps in the near future. There are four areas which SSA believes hold the most promise to eliminate the hearings backlogs:

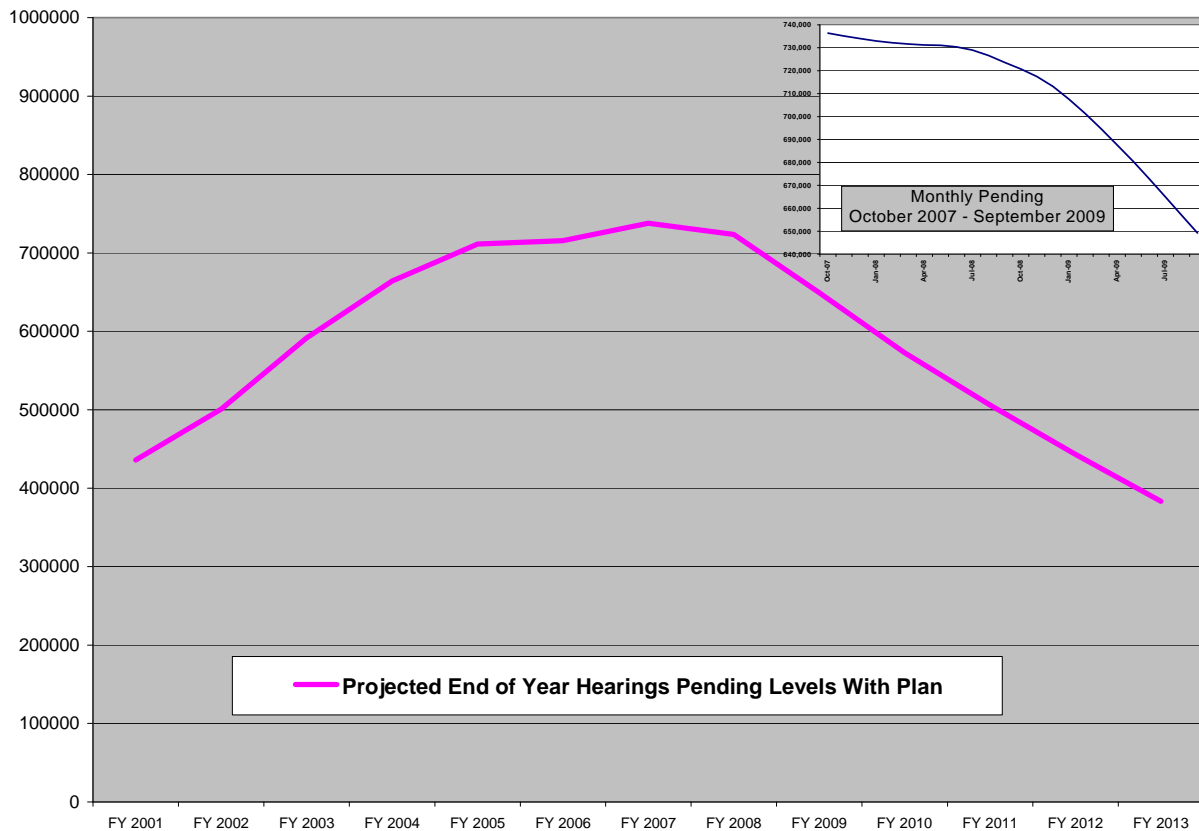
- Accelerating review of cases likely or certain to be approved;
- Improving hearing procedures;
- Increasing adjudicatory capacity; and
- Increasing efficiency through automation and improved business processes.

The success of these initiatives depends on timely and adequate Agency funding. Properly funded, these initiatives will reduce the amount of time members of the public wait for a hearing decision and will lead to a reduction in the number of cases pending in hearing offices.

In FY 2009, SSA fully expects that the number of disability hearings pending will decrease. SSA's most optimistic projections are that the number of hearings pending will be reduced dramatically by FY 2013 under the plan, as Chart 5 illustrates.

While progress will be achieved on the most pressing need to reduce the hearings backlog, SSA cannot discount the hard reality that backlogs and waiting times will continue to grow at the initial level as a result of increasing claims receipts and the need to divert resources to the hearings level.

Chart 5
SSA's Most Optimistic Projections Are That the Number of Hearings Pending Will Be Reduced Dramatically Under the Reduction Plan



Accelerating Review of Cases Likely or Certain to be Approved

In addition to nationwide implementation and expansion of QDD, SSA hopes to leverage advanced diagnostic testing and streamlined evidentiary requirements to pay obvious allowances such as cases involving catastrophic congenital anomalies, acute leukemia, amyotrophic lateral sclerosis (ALS), Huntington's chorea, pancreatic cancer and many other serious impairments.

The Agency has already begun updating its medical listings to more clearly define listing-level disabilities so that cases can be adjudicated in an accelerated timeframe. Currently pending before the Office of Management and Budget (OMB) for approval is the Revised Medical Criteria for Evaluating Impairments of the Digestive System ((800F), Final Rule, RIN No. 0960-AF28, received date: 7/5/2007). Other listings that are currently being developed and revised are those relating to the immune system, malignant neoplastic disease, mental disorders, respiratory disorders and hearing impairments.

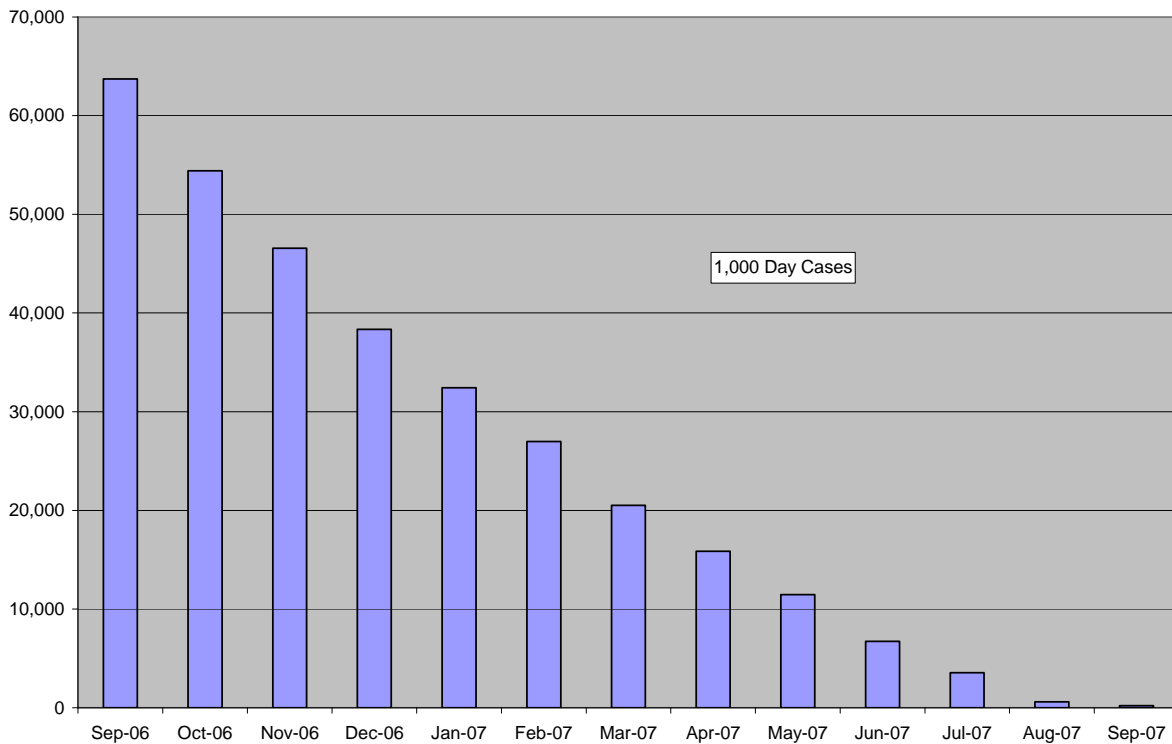
Under SSA's compassionate allowance initiative, the Agency is also investigating methods for identifying compassionate allowances through the use of a computer system that is able to search

for specific allegations or key words included in an electronic disability folder. Because the health care industry is capturing more and more clinical information in structured electronic formats using standardized codesets, SSA also is interested in outside ideas about whether and how it can use that information for identifying compassionate allowances. It is the Agency's hope that compassionate allowances will not only bring faster benefits to individuals in need, but that they will also help to accelerate the processing time of those claims that must be processed through existing procedures.

Improve Hearing Procedures

SSA has already begun to attack the problem of aged cases starting with the cases that are or will be 1,000 days old as of September 30, 2007. This initiative is a moral imperative. An applicant should not have to wait three or four years for his or her day in court. The Agency established a goal of reducing these cases to a negligible level by the end of this fiscal year, and the number has already dropped from more than 63,000 on October 1 of last year to 596 as of August 31. SSA has made this progress, as depicted in Chart 6, by reallocating resources and redefining the metrics by which it measures success.

Chart 6
In FY 2007, SSA Concentrated On Eliminating Pending Hearings That Would Have Been 1,000 Days Old by The End Of The Year



SSA has promulgated a proposed interim final regulation that authorizes Senior Attorney Advisors to issue fully favorable decisions. This rule was published in the Federal Register on August 9, 2007. The Agency will evaluate the lessons from this initiative for similar approaches that could be adopted now to improve the disability determination process.

Increase Adjudicatory Capacity

Hiring additional ALJs is an essential element in a successful plan for reducing the backlog. SSA has worked with the Office of Personnel Management to expedite the selection of 150 ALJs in FY 2008 who will, when fully trained, make a major contribution to reducing the hearings backlogs. The Agency expects to start bringing new ALJs on board in the Spring of 2008.

Further improvements are expected from plans to increase efficiency of support staff. Before a hearing can be held, there is a large amount of work that must be done to prepare the case for the hearing. With advances in technology and improved management, there are a number of ways to increase the efficiency of this behind-the-scenes work, and SSA will pursue them all. As an interim measure, the Agency will streamline the folder assembly portion of case preparation to limit file assembly to a cover sheet and numbering pages sequentially. Streamlining the assembly will have an even greater impact as SSA adds the software needed to automate this function.

In addition, the Agency is sending volunteers from our field offices to hearing offices with the largest backlogs to help assemble the remaining 220,000 paper files. SSA dedicates 5,000 hours of overtime per month to this effort, which will probably continue through next year. To a large extent, the cases pending the longest at the hearing level are paper files. When these cases are finally adjudicated, they will be replaced by the electronic files which will require less time and effort to prepare. By streamlining the file assembly process and making additional staff available to prepare cases, ALJs will be able to schedule and hear more cases.

SSA has also decided to mandate the use of the Findings Integrated Template (FIT). This tool is now being voluntarily used by about 80 percent of ALJs. It is an abbreviated decision format that captures all of the key elements required for a defensible decision. Judges who use FIT have a lower rate of remands from the Appeals Council which saves time and money.

In addition, SSA will screen its oldest cases using profiles developed by the Office of Quality Performance to identify cases where there may be a high probability that an allowance can be issued on the record without a hearing. In visits the Commissioner of Social Security made to hearing offices in Atlanta and Boston, many employees expressed their belief that cases that were initially denied because an applicant did not meet the durational definition of a disability could, at this stage in the process, now meet the time requirements associated with our programs. If true, this could make a significant impact on SSA's backlogs.

The Agency is also planning on capitalizing on the flexibility now available to it with electronic disability folders and other technologies. Assigning ALJs to 141 offices nationwide does not give SSA enough flexibility to address the worst backlogs. Video hearings have successfully addressed backlogs on an *ad hoc* basis, and the Agency feels that reserving a percentage of ALJs

in a central office, a National Hearing Center, solely to do electronic hearings for the most backlogged offices is a better and smarter way to use a very expensive resource. SSA expects to begin operating the National Hearing Center on October 1, 2007.

Increasing Efficiency through Automation and Improved Business Processes

SSA recognizes that technology is instrumental in improving performance. At the hearing level, the Agency needs the ability to sign decisions electronically. Currently, decisions are printed, signed and then scanned into the electronic folder. By implementing electronic signature capacity, the adjudicator will be able to complete the decision-making process electronically, thus sending the signed decision directly to the folder with a click of a mouse.

In addition, SSA needs shared access to the electronic folder. Currently, cases cannot be transferred from office to office in an electronic format. Employees are forced to print and mail a paper copy of cases that are remanded or are shared with another office. For example, if a hearing office seeks assistance from another office for case preparation or drafting decisions, the electronic folder must be converted to a paper folder. If a hearing office remands a case to the DDS, the electronic folder must be converted to paper before it is returned to the hearing office. This is a waste of time, energy and resources. It also undermines the premise behind going electronic. SSA's Office of Systems is working on fixing this issue.

Moreover the Agency is installing video equipment in all hearing rooms which while saving ALJ time and travel costs will enable SSA to both increase the number of hearings and enhance accessibility, particularly in rural areas.

The Agency is also excited about the long-term potential of a new automation tool called ePulling. This program will support preparation of electronic cases for hearing. Case preparation has three components: file development, file analysis and file assembly. ePulling will reduce the amount of time it takes to assemble folders and will allow the staff to devote more time to file analysis and development. ePulling will identify potential duplicate documents, classify documents by type of evidence and date, sequentially number pages, and create exhibit lists. Implementation of ePulling is projected to begin with a pilot next spring.

SSA's progress in working down its aged cases is an example of successfully improving the business processes. Other initiatives in this area include, but are not limited to:

- Direct Appeals Council to issue final decisions when possible to reduce remands;
- Be more proactive in investigating alleged ALJ misconduct complaints;
- Improve management training;
- Encourage greater cooperation between hearing offices, field offices and area director offices;
- Standardize the electronic folder in hearing offices; and

- Implement a quality assurance program.

Conclusion

Adequate funding of SSA's administrative budget is critical to the success of the initiatives described in this report. Therefore, the Agency needs the continued support of Congress in this endeavor. SSA recognizes that the House bill and Senate Committee bill include not only the President's budget for SSA thus far, but also include additional funding (\$100 million in the House bill and \$125 million in the Senate bill). It would be the first time SSA has received its full budget request in 6 years.

Still, under all possible budget scenarios, FY 2008 will be a tight year, and one in which the Agency can merely "stem the tide" in regard to the hearings backlog. FY 2008 will not address the hearings backlog significantly. What SSA will accomplish in FY 2008 is to build a firm foundation with automation improvements, ALJ hiring, and the other initiatives described here, so that dramatic improvements will be achieved in FY 2009 – a real turning of the tide.

The greater the flexibility that SSA is provided in its appropriations, the greater the likelihood that it can successfully drive down the hearings backlog to acceptable levels by FY 2013. If for the entire fiscal year, FY 2008 is funded at the FY 2007 level, this would seriously impede SSA's capability to even stem the tide in FY 2008. The Agency is also concerned that the delay of the issuance of the no-match letters, as a result of a recent temporary restraining order, will cause disruptions and impact its ability to focus resources on the hearings backlog in FY 08.

When it comes to disability backlogs, there is no single magic bullet. However, the initiatives described in this report are a beginning. SSA is committed to modernizing its services to become the best in business. Accordingly, the Agency is currently developing a comprehensive plan for fundamental business process reform. With better systems, better business processes, and better ways of fast-tracking targeted cases, SSA hopes to dramatically reduce the number of hearings pending.