



Highlights of [GAO-08-5](#), a report to congressional committees

### Why GAO Did This Study

The Social Security Protection Act of 2004 temporarily expanded the practice of paying representatives' fees directly out of a claimant's benefits. This practice, known as fee withholding, was previously available only to attorneys in Disability Insurance (DI) cases. It has been extended to attorneys in Supplemental Security Income (SSI) cases, and to nonattorneys—who meet eligibility criteria—in both DI and SSI cases. The act also mandated that GAO examine (1) the professional experience of disability representatives, (2) how judges and claimants view representatives' performance, (3) how the implementation of fee withholding for nonattorneys has been viewed, and (4) the impact of fee withholding in the SSI program. GAO surveyed representatives and judges, and interviewed claimants and Social Security Administration (SSA), state, and other officials.

### What GAO Recommends

We are recommending that SSA monitor and if necessary adjust the nonattorney eligibility criteria, assess the extent of overpayments to representatives and if necessary implement solutions, and continue to explore options to address benefit payment delays. In its comments on a draft of this report, SSA agreed with our findings and recommendations, and noted actions it plans to take to address our recommendations.

To view the full product, including the scope and methodology, click on [GAO-08-5](#). For more information, contact Daniel Bertoni at (202) 512-7215 or [bertonid@gao.gov](mailto:bertonid@gao.gov).

## SSA DISABILITY REPRESENTATIVES

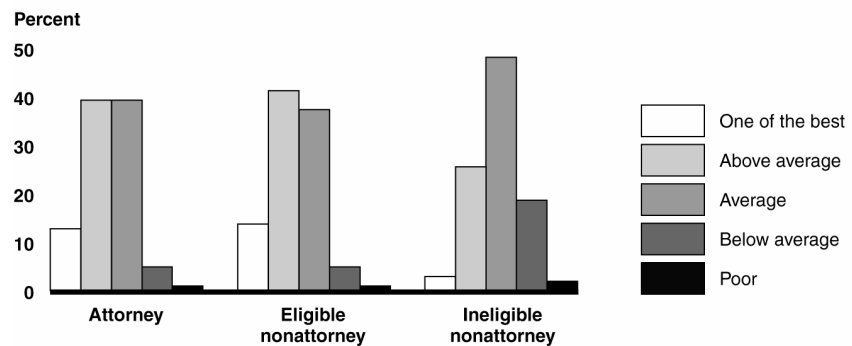
### Fee Payment Changes Show Promise, but Eligibility Criteria and Representatives Overpayments Require Further Monitoring

#### What GAO Found

Nonattorneys who have successfully applied for fee withholding eligibility had more experience representing claimants than attorneys or ineligible nonattorneys. From our surveys, we estimate that eligible nonattorneys had represented on average over 240 disability claimants over 2 years, while other representatives had represented on average fewer than 90. Eligible nonattorneys were also most likely to specialize in disability representation.

Judges and claimants considered the performance of eligible nonattorneys to be generally on a par with that of attorneys, but judges rated ineligible nonattorneys less highly. Judges we surveyed rated eligible nonattorneys as about equal to attorneys overall, and many said a law degree is not necessary for effective disability representation. Claimants we interviewed were generally satisfied with their representatives, regardless of type.

**Judges Rated Attorneys and Eligible Nonattorneys Most Highly Overall**



Source: January/February 2007 GAO survey of administrative law judges in 10 SSA hearing offices.

Judges and eligible nonattorneys were generally satisfied with the implementation of fee withholding for nonattorneys, including most of the eligibility criteria for nonattorneys. However, both groups expressed concern about the experience standard, which currently allows nonattorneys who have represented as few as five disability claims before SSA over a 2-year period to qualify for fee withholding. Most judges we interviewed and more than half of the eligible nonattorneys considered this insufficient. And, according to an association of representatives, fee withholding is attracting more inexperienced nonattorneys to the field of disability representation.

Fee withholding has increased the number of SSI claimants represented by attorneys, but has also complicated payments in certain SSI cases. In some cases, representatives can now inappropriately receive more than the fee authorized by SSA. At least 10 states pay fees to representatives of successful SSI claimants, and SSA does not coordinate with most of these states to prevent overpayments to representatives through fee withholding and state payments. Also, claimants eligible for both DI and SSI have experienced delays in receiving their benefits as a result of fee withholding in the SSI program. SSA has tentative plans to address these delays.