



SOCIAL SECURITY

October 27, 2008

The Honorable Wayne T. Gilchrest
2245 Rayburn House Office Building
House of Representatives
Washington, D.C. 20515

Dear Mr. Gilchrest:

In a June 22, 2007 letter, you asked that we review issues relating to constituent concerns at the Dover Hearing Office, including

1. requests for excessive and redundant medical evidence;
2. unwarranted dismissals;
3. improper handling of terminal illness, medically critical, and dire need claims; and
4. inappropriate comments at hearings.

To assess these issues, we obtained copies of the allegations, reviewed the Social Security Administration's (SSA) processes that address such allegations, obtained extracts from Agency systems related to the claims and prior allegations, and spoke to SSA staff at the Headquarters, regional, and hearing office level, as well as claimant representatives associated with these allegations.

Thank you for bringing your concerns to my attention. My office is committed to combating fraud, waste, and abuse in SSA's operations and programs. This report highlights various facts pertaining to the issues raised in your letter. To ensure SSA is aware of the information provided to your office, we are forwarding a copy of this report to the Agency.

If you have any questions concerning this matter, please call me or have your staff contact Jonathan Lasher, Acting Assistant Inspector General for External Relations, at (410) 965-7178.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick P. O'Carroll, Jr.'.

Patrick P. O'Carroll, Jr.
Inspector General

Enclosure
cc: Michael J. Astrue

CONGRESSIONAL RESPONSE REPORT

Customer Service Issues at the Dover Hearing Office

A-12-08-28080



October 2008

Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.**
- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

Vision

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.

Executive Summary

OBJECTIVE

The objective of this review was to address the request of Congressman Wayne T. Gilchrest regarding claimant complaints of poor customer service and improper handling of claims at the Dover Hearing Office. Specifically, the Congressman requested information on complaints related to (1) requests for excessive and redundant medical evidence; (2) unwarranted dismissals; (3) improper handling of terminal illness, medically critical, and dire need claims; and (4) inappropriate comments at hearings.

BACKGROUND

To remedy public complaints of alleged unfair treatment at hearing offices, all Social Security Administration (SSA) claimants have the right to (1) request a review by the Appeals Council (AC) and/or (2) file an *Unfair Treatment Complaint* with the Office of the Chief Administrative Law Judge (OCALJ).

RESULTS OF REVIEW

The Office of Disability Adjudication and Review (ODAR) has been aware of complaints about unsatisfactory service at the Dover Hearing Office for at least 2 years. In our review, rather than investigating the merits of each allegation, we focused on the status of the complaints at ODAR since many of the claims in question had been appealed or a second request for hearing had been filed and we did not want to interfere with this process. To address the issue of improper handling of terminal illness, we performed a comparison of terminal illness claims at the Dover and Baltimore Hearing Offices, both of which serve the Congressman's constituents. While our review of the terminal illness claims did not find a significant variance between the Dover and Baltimore Hearing Offices, we did find it was taking the Dover Hearing Office more time to process such claims.

Although not a part of initial communications with SSA, the Congressman's office sent ODAR the names and Social Security numbers of 111 constituents with complaints related to Dover Hearing Office. While SSA was not provided the requisite information to support a full review of each allegation, we believe ODAR could have been more proactive, such as providing the Congressman's office with basic information regarding the status of each claim. We reviewed the status of these 111 claims and found that 53 had been appealed or a second request for hearing had been filed.

The Congressman's office also provided us with an additional 49 allegations, and we found that 39 of the allegations related to medical, credibility and procedural issues, which would normally be addressed under the AC process. The remaining 10 allegations related to bias or misconduct, which would normally be referred to

OCALJ's *Unfair Treatment Complaint* process. We found 43 of the 49 claims had been appealed or a second request for hearing had been filed. As such, it appeared the merits of some of the allegations had been or were still being determined.

To address the Congressman's concerns, ODAR requested a review of a sample of dispositions at the Dover Hearing Office. This review found that about 96 percent of dispositions were accurately processed. While the OQP review addressed many of the types of complaints we cited earlier as medical, credibility and procedural, it would not necessarily detect instances of administrative law judge misconduct. Such cases may require a more detailed review of the hearing documents as well as statements from the claimants and their representatives.

We also found that SSA did not adequately track the *Unfair Treatment Complaints* and, as a result, could not determine relevant trends, such as repeated bias complaints associated with an administrative law judge. Moreover, the complaint process could be timelier in acknowledging the receipts of complaints. In addition, until recently, information regarding the complaint process was inaccurate and not always publicized in hearing offices. The Commissioner and ODAR have stated the Agency is committed to improving the *Unfair Treatment Complaint* process and a number of improvements have occurred or are underway.

CONCLUSIONS

Most of the claims related to the allegations have been reviewed or are still undergoing additional review by ODAR, indicating the claimants have taken additional actions and the Agency is reviewing the underlying concerns. However, ODAR needs to ensure all the claimants' concerns are appropriately addressed, the Congressman's concerns are timely addressed by the AC or the *Unfair Treatment Complaint* process and the status of this process is shared with the Congressman's office. To assist with this process, we have shared information related to the 49 claims in our possession with ODAR. We understand that approximately 200 allegations related to the Dover Hearing Office were awaiting resolution. Moreover, ODAR needs to ensure that continued improvements to the *Unfair Treatment Complaint* process allow the Agency to track pending and completed reviews, timely notify parties about the status of their complaints, and provide the public with accurate information on how to file a complaint.

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OBJECTIVE

The objective of this review was to address the request of Congressman Wayne T. Gilchrest¹ regarding claimant complaints of poor customer service and improper handling of claims at the Dover Hearing Office. Specifically, the Congressman requested information on complaints related to (1) requests for excessive and redundant medical evidence; (2) unwarranted dismissals; (3) improper handling of terminal illness, medically critical, and dire need claims; and (4) inappropriate comments at hearings.

BACKGROUND

The Office of Disability Adjudication and Review (ODAR) administers the hearings and appeals program for the Social Security Administration (SSA). The hearing process begins after an applicant for benefits is denied at the initial and reconsideration levels. At the next step in the appeals process, an administrative law judge (ALJ) conducts a hearing and issues a decision. Claimants who are dissatisfied with an ALJ's decision on their cases may request that SSA's Appeals Council (AC) review the decision. If the claimant is dissatisfied with the AC action, the claimant may appeal the case to a Federal district court. When the court remands (or returns) a case to the Commissioner of Social Security, the remand is sent to the AC. The AC remands the case to an ALJ.

CLAIMANT COMPLAINTS

To remedy complaints of alleged unfair treatment at hearing offices, all SSA claimants have the right to (1) request a review by the AC and/or (2) file an *Unfair Treatment Complaint* with the Office of the Chief Administrative Law Judge (OCALJ) (see Appendix D).

¹ Congressman Gilchrest represents the First Congressional District of Maryland, which encompasses the Eastern Shore of Maryland, as well as parts of Anne Arundel, Baltimore and Harford Counties. Four hearing offices serve Congressman Gilchrest's constituents in Baltimore, Maryland; Dover, Delaware; Norfolk, Virginia; and Washington, DC. According to Congressman Gilchrest's staff, most of the Congressman's constituents attend hearings at the Dover, Delaware, office. See Appendix C for general workload statistics associated with these four hearing offices.

AC Process

ODAR staff informed us that the majority of allegations of unfair treatment are submitted by claimants or their representatives in connection with a request for an AC review. The AC process is to be used when a party to the hearing disagrees with the hearing decision or with the dismissal of the hearing request.² The AC will generally review a case if it determines

- it appears the ALJ abused his/her discretion;
- there is an error of law;
- the ALJ's actions, findings, or conclusions are not supported by substantial evidence;
- there is a broad policy or procedural issue that may affect the general public interest; and/or
- new material evidence is submitted, the evidence submitted relates to the period on or before the date of the ALJ's decision, and the AC finds that the ALJ's actions, findings, or conclusion is/are contrary to the weight of the evidence in the records.³

Under the AC process, when a pending appeal indicates possible improper conduct by the ALJ, the case is sent to OCAJ for a separate review pertaining to the ALJ. However, the AC will continue to process the claimant's appeal based on the merits of evidence and legal proceedings and make a determination on the allegation as part of the administrative record in the decision on the case.⁴

Public ALJ Misconduct Complaint Process

Since 1992, ODAR has offered a second method to voice complaints about ALJ bias, misconduct or unfair treatment—the *Public ALJ Misconduct Complaint Process*. This complaint procedure does not provide an additional or alternative means of appealing unfavorable decisions, but it is another method to address any public perception of bias, or misconduct in the adjudicative process. The public is informed and instructed in notices posted in hearing offices and on SSA's website about "How to File an Unfair Treatment Complaint." Specifically, the notices state "[SSA] wants to treat fairly and equally all claimants and their representatives...If you think any ALJ treated you unfairly, you should tell us about it and ask us to look into it. You can ask even while we are deciding your claims for benefits."⁵

² The claimant is expected to file a *Request for Review of Decision/Order* (Form HA-520) within 60 days of the date he/she received the hearing decision or order.

³ SSA, *Online Social Security Handbook, Chapter 20: Determinations and the Administrative Review Process*, Section 2013.6 – *When Does the Appeals Council Review a Case?*

⁴ SSA, *Hearings, Appeals and Litigation Law manual (HALLEX) I-3-1-25—Unfair Hearing Allegations*.

⁵ See Appendix E.

Written complaints are to be addressed to OCALJ in Falls Church, Virginia. The notice states that the Agency will inform the sender that OCALJ received the complaint, assign the issue to someone who has not handled the claim in question, and share the final results. If the claimant is also filing an appeal with the AC, the AC will look into the complaint as part of the appeal, and this additional review will be part of the final decision on the appeal.

In May 2007, the Commissioner published a number of initiatives to eliminate the hearings backlog,⁶ including being more proactive in investigating alleged ALJ misconduct complaints. In the *Summary of Initiatives to Eliminate the SSA Hearings Backlog*, the Commissioner noted

The process to handle public complaints against ALJs was adopted as an interim process in 1992. It was intended as a short-term process until the permanent process could be adopted. Fifteen years later, the permanent process has still not been adopted. We continue to handle public complaints but are working on developing a permanent process that results in consistent, timely action.

CONGRESSIONAL INQUIRIES AT HEARING OFFICES

Claimants via their Members of Congress can also inquire on their claims and monitor ODAR's processing of their claims.⁷ According to ODAR's policy,⁸ hearing offices are expected to (1) give high priority to congressional inquiries; (2) respond to congressional inquiries promptly, accurately and courteously; and (3) communicate any concerns about a particular inquiry to the congressional office that made the inquiry as well as the Office of the Regional Chief ALJ and OCALJ.

Current policy also provides for some flexibility in how a hearing office responds to a congressional inquiry. For example, some hearing offices have made arrangements with congressional staff to send monthly status reports using mutually agreed-upon modes of responses, for example, sending printouts generated from the Case Processing and Management System (CPMS) in lieu of letters. The policy notes that hearing office management should document any such agreements in the hearing office's administrative records.⁹

⁶ Statement of Michael J. Astrue, Commissioner of Social Security, Testimony before the Senate Finance Committee, May 23, 2007.

⁷ See Appendix F for more information on ODAR's congressional response process.

⁸ SSA, HALLEX I-1-6-1.A—*Congressional Inquiries at Hearing Offices*.

⁹ *Id.*

Results of Review

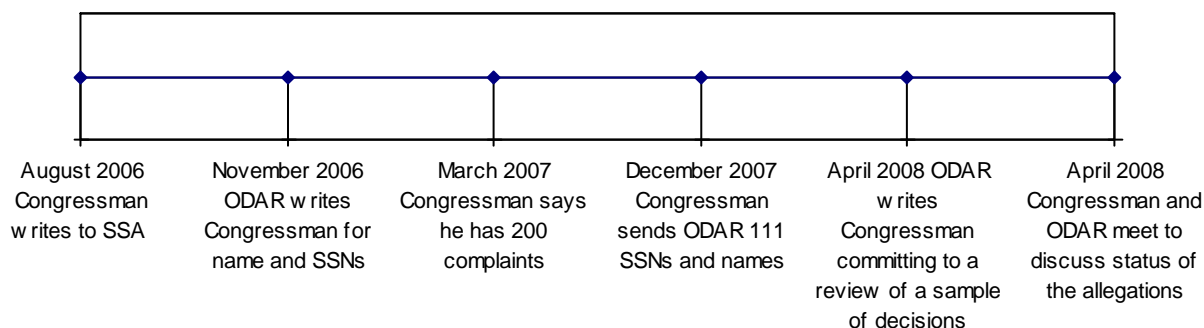
ODAR has been aware of complaints about unsatisfactory service at the Dover Hearing Office for at least 2 years, and details of some of these cases have been shared with the Agency. While SSA was not provided the requisite information to support a full review of each allegation, we believe ODAR could have been more proactive in providing the Congressman's office with basic information regarding the status of each claim. Of the 49 allegations we examined, we found that 80 percent of the complaints related to issues normally handled by the AC. The remaining 20 percent of the complaints related to bias or misconduct, which would normally be referred to OCALJ's *Unfair Treatment Complaint* process. In addition, 43 of these 49 claimants had requested new hearings, submitted their cases to the AC, or were pursuing remedy through the Federal courts. As such, it appeared the merits of some of the allegations had been or were still being determined. ODAR requested a review of the dispositions of the Dover Hearing Office, and this review found that about 96 percent of dispositions were accurately processed. Our own review of the processing time for terminal illness claims at the Dover Hearing Office found some delays. We also found that SSA was not adequately tracking the *Unfair Treatment Complaints* and, as a result, could not determine relevant trends, such as repeated bias complaints associated with an ALJ. Moreover, the complaint process could be timelier in acknowledging the receipts of complaints. In addition, until recently, public information on the process was inaccurate and not always available at hearing offices. The Commissioner and ODAR have stated the Agency is committed to improving the *Unfair Treatment Complaint* process and a number of improvements have occurred or are underway.

RECEIPT OF COMPLAINTS

ODAR has been aware of complaints about unsatisfactory service at the Dover Hearing Office for approximately 2 years (see Figure 1 and Appendix G). We found that Congressman Gilchrest's office first notified ODAR of constituent complaints associated with the Dover Hearing Office in August 2006, citing a number of concerns, such as procedures for hearing notifications, scheduling delays, the integrity of the hearings process, response time on inquiries and allegations of retaliation against claimants for making such inquiries.¹⁰

¹⁰ In our review, rather than investigating the merits of each allegation, we focused on the status of the complaints at ODAR since many of the claims in question had been appealed or a second request for hearing had been filed and we did not want to interfere with this process.

Figure 1: Timeline of Correspondence Regarding Issues at the Dover Hearing Office



In subsequent letters, SSA addressed some of the higher-level issues but not the specific allegations. In a November 2006 letter, ODAR noted that “. . . without having case-specific information (Social Security Number or names), we are not able to provide a more detailed response.”

In March 2007, Congressman Gilchrest wrote to ODAR noting that the number of constituent complaints exceeded 200 claims. In December 2007, the Congressman’s office sent the names and Social Security numbers (SSN) of 111 constituents with complaints related to the Dover Hearing Office. Although the list contained the claimant’s name and SSN, the list did not contain specific allegations related to each claim. As a result, ODAR informed the Congressman that ODAR needed specific allegations for each claim to investigate the issues.

While we agree that the correspondence sent by the Congressman’s office was not sufficient to initiate the *Unfair Treatment Complaint* process, the list provided enough information for ODAR staff to query their systems to determine the status of these claims, such as whether appeals had been filed. We performed such an analysis and found that 53 of these cases had been appealed or a second request for hearing had been filed as of September 2008 (see Appendix H). The Agency could have shared this information with the Congressman to demonstrate continued Agency activity with these claimants. The December 2007 list also contained the names of the claimants’ representatives and the ALJs hearing the cases. ODAR management has stated that current procedures require that the Agency deal directly with the person making the complaint (the Congressman) rather than the claimants and their representatives. Nonetheless, given the continued correspondence between the Congressman and ODAR, as well as the Commissioner’s statements regarding an improved ALJ complaint process, we believe ODAR could have been more proactive with these complaints.

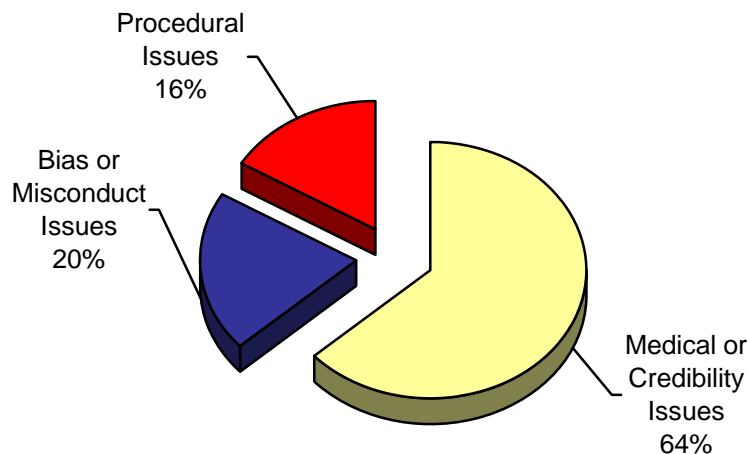
STATUS OF CONSTITUENT COMPLAINTS

Our review of an additional 49 constituent complaints related to the Dover Hearing Office found that most related to medical, credibility and procedural issues, though 10 alleged bias or misconduct. Most of these cases were still pending and the claimants had requested new hearings, submitted their cases to the AC, or were pursuing remedy through the Federal courts. ODAR requested a review of the dispositions at the Dover Hearing Office to address some of these issues, and the review found that the Hearing Office had adequate support for its decisions. While our own review of terminal illness claims did not find a significant variance between the Dover Hearing Office and another hearing office serving the same constituents, we did find it was taking the Dover Hearing Office more time to process such claims.

CLASSIFICATION OF COMPLAINTS

We reviewed 49 constituent complaints provided by Congressman Gilchrest's office to better understand the type of complaints being filed.¹¹ All of the complaints were associated with ALJs at the Dover Hearing Office. We found that the majority of the complaints related to medical or credibility issues, followed by alleged bias or misconduct on the part of the ALJ and finally procedural irregularities (see Figure 2).

**Figure 2: Types of Constituent Complaints
(49 Claims)**



We classified a case as “medical or credibility issues” where, for example, complaints related to a questionable disability onset date or an ALJ not considering specific evidence. We classified a case as “procedural issues” where, for instance, complaints related to an inappropriate hearing location or an unwarranted dismissal of a case. We

¹¹ We received 51 complaints from Congressman Gilchrest's office, but 2 lacked the claimants' SSNs.

considered a case to have “bias or misconduct issues” if the allegation related to an inappropriate statement by the ALJ or improper treatment due to someone’s age or illness.

We found that 39 complaints, or 80 percent, related to medical, credibility and procedural issues and could normally be addressed through the AC process. The remaining 10 complaints, or 20 percent, related to bias or misconduct and would be best suited for the *Unfair Treatment Complaint* process. For example, in one case, the claimant alleged the ALJ “would cut me off” and “yelled” when a witness was introduced, noting the ALJ “...did not want to hear any things [sic] he had to say, and continually interrupted his testimony as well.” However, we later reviewed the digital recording associated with this hearing and found no evidence that the ALJ had yelled at or been rude to the claimant.

We also spoke to AC staff concerning the allegations and were told that the medical, credibility and procedural complaints were common reasons for an appeal. However, the Administrative Appeals Judge we spoke to said that the allegations of bias or misconduct we shared were not common. These cases included alleged discrimination against a person under age 50 and misconduct by an ALJ who was rude to the claimant. She said these are not routine allegations in an appeal, and her office would normally review the matter to determine whether the allegations had merit and advise OCALJ’s Division of Quality Services (DQS) regarding the findings.

ODAR PROCESSING OF DISABILITY CLAIMS

As of August 2008, 43 of the 49 claimants had taken action on their claims by pursuing disability benefits through the AC or Federal court process or by filing a new request for a hearing (see Table 2).¹² In our review of the appeal documentation, we found that many of the claimants reaffirmed their position while seeking appeal. Hence, many of the issues identified by Congressman Gilchrest had been or were still being reviewed by the Agency at the time of our audit. Of the 43 claims undergoing additional review, 11 had favorable new decisions, 8 had unfavorable new decisions, and 24 were still pending a new decision.

**Table 2: Status of 49 Constituent Claims
(As of August 2008)**

| Category | No New Action on Case | Appeals Council Review | Federal Court Review | 2nd Hearing Request | Reopen/Hearing Level | Total |
|-------------------------|------------------------------|-------------------------------|-----------------------------|----------------------------|-----------------------------|--------------|
| Number of Claims | 6 | 25 | 14 | 1 | 3 | 49 |

¹² A claimant representative we interviewed told us that considering it currently takes over 2 years from the time a claim is filed until a hearing decision is rendered, starting the claims process again from the beginning is not an efficient option for most disability claimants. However, some claimants choose this option with the expectation that the disability will be adjudicated differently at the second hearing.

While the AC can refer cases of potential bias or misconduct to OCALJ as part of its review, it is possible these claims could have been processed more timely under the *Unfair Treatment Complaint* process. In fact, we found that 4 of the 49 complaints were being treated as *Unfair Treatment Complaints*. At the time of our review, three of the complaints were pending and one had been closed as unsupported.

As noted earlier, ODAR could have provided the Congressman the information we provide in Table 2 to demonstrate that the claims were being reviewed. We provided our analysis of these 49 claims to ODAR for further review.

OFFICE OF QUALITY PERFORMANCE

As a result of Congressman Gilchrest's inquiries into the performance of the Dover Hearing Office, ODAR decided to review a sample of completed cases. The Office of Quality Performance (OQP) randomly selected 90 favorable and 90 unfavorable decisions issued by the Dover Hearing Office after September 30, 2006.¹³ OQP examiners found that 86 of the 90 allowance decisions were supported by a preponderance of the evidence, which represents a 96 percent agreement rate. The examiners agreed with 48 of 49 denials¹⁴ they reviewed for an agreement rate of 98 percent. For allowances and denials combined, the agreement rate was 96 percent. The report also noted that the examiners reviewed hearing recordings and all written decisions and did not uncover any evidence that Dover ALJs were trying to persuade claimants to either amend their onset date or request a closed period of disability.¹⁵

In the case of the four allowances where there was disagreement, the examiners concluded that three cases contained decisional errors and the remaining case did not contain sufficient documentation to support any decision. The one denial with a disagreement related to insufficient evidence in the record to make any decision.

While the OQP review addressed many of the types of complaints we cited earlier as medical, credibility and procedural, it would not necessarily detect cases of ALJ misconduct. Such cases may require a more detailed review of the hearing documents as well as statements from the claimants and their representatives.

¹³ According to OQP's report methodology, unfavorable decisions with a pending AC request for review or previously receiving an AC review were excluded from the sample. However, OQP explained that since these ALJ decisions were evaluated by the AC, an additional review would not be necessary inasmuch as the AC findings could be used by OCALJ to supplement the OQP findings.

¹⁴ Only 49 of the 90 unfavorable decisions were identified for review, primarily due to appeals pending at the AC as well as the inability to obtain some paper folders. No other denials were available within the sampling timeframe.

¹⁵ A closed period of disability occurs when (1) an impairment prevented substantial gainful activity at least 12 months; (2) prior to the date of adjudication, the individual was no longer disabled; and (3) the "disability" ceased no earlier than 14 months before the month of filing. See SSA, POMS DI 25510.010 Title II - *Closed Period*.

CRITICAL CASES

One of the concerns cited by Congressman Gilchrest involved improper handling of critical cases at the Dover Hearing Office.¹⁶ ODAR provided us with a list of terminal illness claims¹⁷ for the four hearing offices serving the Congressman's constituents. Terminal illness claims require additional special handling by hearing offices. We reviewed claims from the Dover and Baltimore Hearing Offices during Fiscal Years (FY) 2004 to 2007 to identify any problematic trends,¹⁸ such as processing delays and/or individuals dying before their cases were decided. While our review of the terminal illness claims did not find a significant variance between the Dover and Baltimore Hearing Offices, we did find it was taking the Dover Hearing Office more time to process such claims.

For the 13 terminal illness claims at the Dover Hearing Office, we found the average processing time was 92 days, with the quickest review being 1 day and the longest review being 544 days.¹⁹ We also found one case where the decision was issued 79 days after the death of the claimant.²⁰

For the 45 terminal illness claims at the Baltimore Hearing Office, we found the average processing time was 85 days, with the quickest review being 1 day and the longest review being 348 days. We also found four cases where the beneficiaries died before the decisions were issued. These decisions were issued between 69 and 248 days after the claimants' deaths.²¹

UNFAIR TREATMENT COMPLAINT PROCESS

Our review found that ODAR lacked an automated database to track *Unfair Treatment Complaint* allegations and produce management information on trends in ALJ bias or misconduct. Moreover, the complaint process could be timelier in acknowledging the receipts of complaints. In addition, until recently, information regarding the complaint

¹⁶ ODAR designates a claim for expedited processing based on one of three criteria: (1) terminal illness, (2) dire need, and (3) threatening behavior to themselves or others. For more information on Critical Cases, see HALLEX I-2-1-40 – *Critical Cases*.

¹⁷ Terminal illness claims include disability claims for any military service personnel, regardless of where the disability occurred (that is, in the United States or on foreign soil) during military service in the line of duty October 1, 2001, or later.

¹⁸ We provide additional workload statistics on the four hearing offices serving Congressman Gilchrest's constituents in Appendix C.

¹⁹ We calculated the timeliness from the date the case was classified as a terminal illness claim in CPMS to the date of the decision. As a result, the average processing time for these claims was longer than 92 days.

²⁰ The median processing time for Dover Hearing Office terminal illness claims was 65 days.

²¹ The median processing time for Baltimore Hearing Office terminal illness claims was 37 days.

process was inaccurate and not always publicized in hearing offices. The Commissioner and ODAR have stated the Agency is committed to improving the *Unfair Treatment Complaint* process and a number of improvements have been made or are underway.

UNFAIR TREATMENT COMPLAINT MANAGEMENT INFORMATION

The system to process *Unfair Treatment Complaints* is complex²² and involves coordination and exchange of documents and information between OCALJ, regional offices²³ and the AC (see Appendix D for a flowchart of the responsibilities of the entities involved in the *Unfair Treatment Complaint* process). Currently, the components exchange paper documents as the complaint moves through the process.

Unfair Treatment Complaints are processed through a number of venues, including the hearing office, regional office, Congressman's office, as part of an AC appeal, or directly to OCALJ. OCALJ's DQS shares the complaint information with the appropriate regional office. The regional office investigates the complaint by interviewing the ALJ involved and reporting the results to DQS. At the end of the investigation, the regional office submits a recommendation that may involve a personnel action against the ALJ. The Director of DQS told us that the office usually agrees with the regional office's recommended course of action. Regardless of where the complaint was filed or which office reviewed the complaint, DQS is to be notified of all claims and any recommendations from either the AC or Regional Chief ALJ.

The *Unfair Treatment Complaint* process supplements, and is coordinated with, the AC process. When a pending appeal indicates possible improper conduct by the ALJ, the AC sends the case to DQS for a separate review. Under the AC process, the AC must respond to the allegation of bias or an unfair hearing in the AC decision if an allegation or complaint has been filed with the appeal. However, the AC will continue to process the claimant's appeal based on the merits of evidence and legal proceedings and make a determination responding to the allegation of bias in the AC administrative record or decision. In addition, misconduct can be identified by the AC on its own without a complaint as part of the review of the hearing decision.

OCALJ and Region III Data

In our interviews and review of the *Unfair Treatment Complaint* process, we found that ODAR did not have a centralized electronic database for tracking and reporting on these complaints. Instead, ODAR maintains paper documents in a filing cabinet arranged by hearing office. As a result, ODAR could not provide us with management information on the number of *Unfair Treatment Complaints* that were filed, the number

²² Complaints may be filed at any time in the process up to and including the time the claim is filed at the Federal court level. Complaints that are mailed by the public to SSA may be received by hearing offices, field offices, the AC, any regional office, OCALJ or the Office of General Counsel.

²³ By "regional office," we mean the Office of the Regional Chief ALJ.

of complaints that had merit and the action taken on such cases, or the trends in misconduct or bias among its ALJs. While OCALJ staff provided us 20 *Unfair Treatment Complaints* received in Calendar Year (CY) 2007²⁴ relating to the 4 hearing offices serving Congressman Gilchrest's District,²⁵ we could not be certain that we were provided with all the complaints for this period.

We reviewed the process for tracking *Unfair Treatment Complaints* at Region III's²⁶ Office of the Regional Chief ALJ and found the office had its own control system to track complaints. However, this regional system did not electronically interface with OCALJ's system. According to the regional staff, they confer weekly with DQS regarding their ongoing investigations into *Unfair Treatment Complaints*. However, we reviewed a list of 20 *Unfair Treatment Complaints* from the region's control system for the hearing offices in Congressman Gilchrest's District and found 5 *Unfair Treatment Complaints* that were in the Region's control system but not on OCALJ's list. OCALJ staff informed us that two of these should have been included as part of their files. We could not get adequate clarification from ODAR regarding the other three *Unfair Treatment Complaints* and could not determine why they were not on OCALJ's list.

The lack of a central control for tracking and resolving these complaints has been a longstanding concern. In a 2002 report,²⁷ the Government Accountability Office (GAO) recommended that SSA (1) adopt a method for summarizing key information on each ALJ complaint, including the type of allegation; (2) place the complaint information in an electronic format; (3) periodically analyze this information and report the results to the Commissioner; and (4) develop necessary action plans. While SSA concurred with GAO's findings, we found no evidence the Agency took timely action on these recommendations. ODAR management told us that DQS is taking steps to create a system of records that will lead to the development of an electronic database to track relevant trends.

Acknowledging Receipt of Complaints

SSA had informed the public that parties filing complaints will be promptly notified about the receipt of their complaint as well as the subsequent results of the investigation.²⁸ Of the 20 *Unfair Treatment Complaint* folders we reviewed, we found that 13 were sent as

²⁴ In fact, one complaint was related to late CY 2006 and another to early CY 2008.

²⁵ Of the 20 complaints, 11 related to the Dover Hearing Office, 5 related to the Washington, DC Hearing Office, and the Baltimore and Norfolk hearing offices each had 2 complaints. See Appendix I for information on these complaints.

²⁶ Region III includes Delaware, Maryland, Pennsylvania, Virginia, Washington, DC, and West Virginia.

²⁷ Government Accountability Office, *SSA Disability Decision Making: Additional Measures Would Enhance Agency's Ability to Determine Whether Racial Bias Exists* (GAO-02-831), September 2002.

²⁸ In the updated version of the website, the word "promptly" was removed in relation to OCALJ's response time to complaints.

part of an appeal to the AC. Per AC policy, claimants are informed about the receipt of the complaint in a notice from the AC. Of the seven remaining complaints, five had acknowledgment letters in their files, and the median processing time from receipt of complaint to its acknowledgment was 60 days. The remaining two files had a complaint letter but no acknowledgment letter. ODAR informed us that one acknowledgment letter had been sent after we were provided with our data. Congressman Gilchrest forwarded the complaint in question July 2007, and the acknowledgment letter provided to us by ODAR was sent in April 2008, approximately 9 months after the original complaint.

Unfair Treatment Complaint Public Material

SSA's website instructs individuals with complaints about the hearing process to write a letter to the Agency (Appendix E provides a copy of the updated information from the website). However, at the time of our review, the information on this site had not been updated since 2004. As a result, instead of listing ODAR, the site was still using the former name—the "Office of Hearings and Appeals." SSA further instructed the claimant to send a letter to the Office of Special Counsel if they believed they were not getting an adequate response from OCALJ. However, the Office of Special Counsel had not existed since 2003. According to ODAR's mailroom supervisor, all mail addressed to the Office of Special Counsel was opened and reviewed, and the *Unfair Treatment Complaint* letters were forwarded to OCALJ.

ODAR staff told us posters in hearing office reception areas contained information on how to file *Unfair Treatment Complaints*. However, in our visits to two hearing offices in Region III we did not see these posters in the reception areas. ODAR staff told us they were aware that SSA's website and its hearing office posters had out-of-date information. As a result, the website was updated in August 2008. According to ODAR, updated posters were also being distributed to all hearing and regional offices.

Comments from Law Firms

We interviewed attorneys at three law firms representing individuals in the Congressman's district who filed complaints with ODAR regarding the Dover Hearing Office. We found that they either had problems with the *Unfair Treatment Complaint* process or were not confident about how it worked. An attorney from one law firm stated that one of his claimants had used the *Unfair Treatment Complaint* process, but he never received an acknowledgment letter nor was he informed of the outcome of the complaint. As a result, the attorney decided the process was not effective. An attorney from a different law firm only filed requests for appeals to the AC because he said the *Unfair Treatment Complaint* process was ineffective. In addition, he sent a letter to Congressman Gilchrest's office noting several claimants' complaints.

Commissioner Initiative to Improve the Process

ODAR management said the Agency is committed to improving the *Unfair Treatment Complaint* process and implementing the Commissioner's initiative in this area. As noted earlier, steps are being taken to better track complaint processing, the *Unfair Treatment Complaint* website was recently updated, and new posters have been created for the hearing offices. According to ODAR management, staffing has also been increased in DQS to address the growing workload of *Unfair Treatment Complaints* and related matters. In addition, an inter-component workgroup was established to update and finalize the *Unfair Treatment Complaint* regulations.²⁹

²⁹ The parties involved include OCALJ as well as the Offices of General Counsel, Appellate Operations, and Labor Management and Employee Relations.

Conclusions

For more than 2 years ODAR has been aware of allegations related to the Dover Hearing Office. While it appears that some of these cases have undergone subsequent review by ODAR, other allegations remain outstanding and await review. We believe ODAR had enough facts from the correspondence to provide, at a minimum, status information to Congressman Gilchrist. Of the 49 allegations we examined, 43 of the claimants had requested new hearings, submitted their cases to the AC, or were pursuing remedy through the Federal courts. We understand that about 150 additional allegations related to the Dover Hearing Office may also be awaiting resolution.

While ODAR reviewed the performance of the Dover Hearing Office and did not find any issues, we believe ODAR needs to ensure these allegations are timely reviewed by the AC or the *Unfair Treatment Complaint* process. To assist with this process, we have shared information related to the 49 claims with ODAR.

Finally, we found that ODAR did not have a centralized electronic database to track *Unfair Treatment Complaints* and, as a result, lacks an easy means to determine relevant trends, such as repeated bias complaints associated with an ALJ. Moreover, until recently, public information regarding the complaint process was inaccurate and not always posted at hearing offices.

The Commissioner and ODAR have stated the Agency is committed to improving the *Unfair Treatment Complaint* process and a number of improvements have been made or are underway. ODAR needs to ensure that continued improvements to the *Unfair Treatment Complaint* process allow the Agency to appropriately track pending and completed reviews, timely notify parties about the status of their complaints, and provide the public with accurate information on how to file a complaint.

Appendices

Acronyms

| | |
|-------------|--|
| AC | Appeals Council |
| ALJ | Administrative Law Judge |
| CPAB | Congressional and Public Affairs Branch |
| CPMS | Case Processing and Management System |
| CY | Calendar Year |
| DEO | Division of Executive Operations |
| DQS | Division of Quality Services |
| ECB | Executive Communications Branch |
| FY | Fiscal Year |
| GAO | Government Accountability Office |
| OAO | Office of Appellate Operations |
| OCALJ | Office of the Chief Administrative Law Judge |
| ODAR | Office of Disability Adjudication and Review |
| OQP | Office of Quality Performance |
| RCALJ | Regional Chief Administrative Law Judge |
| SSA | Social Security Administration |
| SSN | Social Security Number |
| Form | |
| HA-520 | <i>Request for Review of Decision/Order</i> |

Scope and Methodology

To complete our objective, we:

- Reviewed applicable Federal laws and regulations, as well as Social Security Administration (SSA) policies and procedures pertaining to SSA's disability review process.
- Reviewed Office of Disability Adjudication and Review (ODAR) criteria and procedures for processing *Unfair Hearing Allegations* in the Appeals Council and complaints via the *Public Administrative Law Judge Misconduct Complaint Process*.
- Reviewed workload data, including remand statistics, for the hearing offices in Norfolk, Virginia; Washington DC; Dover, Delaware; and Baltimore, Maryland, for 2005, 2006 and 2007.
- Analyzed the *Unfair Treatment Complaints* in the four hearing offices for Calendar Year 2007.
- Compiled, reviewed and summarized constituent complaints from source documents provided by the Congressman's office.
- Reviewed personnel actions that had been taken against administrative law judges (ALJ) in the four hearing offices for the previous 3 years.
- Reviewed congressional inquiries and correspondence pertaining to issues in the four hearing offices for the previous 3 years.
- Reviewed incident reports and/or harassment complaints filed in the four hearing offices in the previous 3 years.
- Interviewed staff and senior management in the Office of the Chief ALJ, the Office of the Regional Chief ALJ, Hearing Office Directors in the four hearing offices and the Hearing Office Chief Administrative Law Judge in the Dover Hearing Office.
- Interviewed attorneys from law firms who represented Congressman Gilchrest's constituents in hearings before ALJs in the Dover Hearing Office.

The SSA entity reviewed was ODAR under the Deputy Commissioner for Disability Adjudication and Review. The electronic data used for this audit were sufficiently reliable to meet our audit objectives. Our tests of internal controls were limited to gaining an understanding of the laws, regulations and policies that govern the processing of claimant complaints and performing the audit steps identified above. We

conducted our audit from December 2007 to September 2008 in Falls Church, Virginia. We conducted this performance audit 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Workload Statistics for Hearing Offices Serving Congressman Gilchrest's Constituents

Using Case Processing and Management System data for Fiscal Years (FY) 2005 through 2007, we analyzed workload statistics for the four hearing offices serving Congressman Gilchrest's constituents.¹ The four hearing offices are located in Baltimore, Maryland; Dover, Delaware; Norfolk, Virginia; and Washington, DC. According to Congressman Gilchrest's staff, the majority of the Congressman's constituents attend hearings at the Dover, Delaware office.

Table C-1: Eastern Maryland Hearing Offices Dispositions and Average Processing Time

| Hearing Office | FY 2005 | | FY 2006 | | FY 2007 | |
|----------------|--------------|---------------------------------|--------------|---------------------------------|--------------|---------------------------------|
| | Dispositions | Average Processing Time in Days | Dispositions | Average Processing Time in Days | Dispositions | Average Processing Time in Days |
| Dover | 1,768 | 306 | 2,009 | 459 | 1,620 | 490 |
| Baltimore | 5,231 | 388 | 5,543 | 484 | 5,575 | 560 |
| Washington, DC | 3,056 | 463 | 3,496 | 513 | 2,791 | 502 |
| Norfolk | 2,989 | 393 | 3,373 | 420 | 3,005 | 379 |

Table C-2: Number of ALJs in each Hearing Office

| Hearing Office | FY 2005 Number of ALJs | FY 2006 Number of ALJs | FY 2007 Number of ALJs |
|----------------|---------------------------|---------------------------|---------------------------|
| Dover | 5 | 4 | 3 |
| Baltimore | 11 | 12 | 11 |
| Washington, DC | 7 | 6 | 6 |
| Norfolk | 6 | 7 | 6 |

Note: Our ALJ counts were determined by the number of ALJs making decisions on cases during the time period in question. As a result, our count may vary with the Office of Disability Adjudication and Review's staffing reports, which determine ALJ counts at a specific point in time.

Table C-3: Dover Hearing Office Disposition Results

| Decision | FY 2005 | | FY 2006 | | FY 2007 | |
|-------------|----------|-----------|----------|-----------|----------|-----------|
| | Title II | Title XVI | Title II | Title XVI | Title II | Title XVI |
| Favorable | 49% | 47% | 50% | 38% | 51% | 44% |
| Unfavorable | 35% | 35% | 35% | 40% | 32% | 37% |
| Dismissals | 13% | 19% | 15% | 22% | 17% | 20% |

¹ Congressman Gilchrest represents the First Congressional District of Maryland, which encompasses the entire Eastern Shore of Maryland, as well as parts of Anne Arundel, Baltimore and Harford Counties.

Table C-4: Baltimore Hearing Office Disposition Results

| Decision | FY 2005 | | FY 2006 | | FY 2007 | |
|-------------|----------|-----------|----------|-----------|----------|-----------|
| | Title II | Title XVI | Title II | Title XVI | Title II | Title XVI |
| Favorable | 74% | 65% | 71% | 63% | 67% | 60% |
| Unfavorable | 13% | 14% | 12% | 14% | 13% | 16% |
| Dismissals | 14% | 21% | 17% | 23% | 20% | 25% |

Table C-5: Washington, DC Hearing Office Disposition Results

| Decision | FY 2005 | | FY 2006 | | FY 2007 | |
|-------------|----------|-----------|----------|-----------|----------|-----------|
| | Title II | Title XVI | Title II | Title XVI | Title II | Title XVI |
| Favorable | 63% | 55% | 68% | 61% | 60% | 56% |
| Unfavorable | 27% | 27% | 19% | 21% | 25% | 25% |
| Dismissals | 10% | 19% | 13% | 18% | 16% | 19% |

Table C-6: Norfolk Hearing Office Disposition Results

| Decision | FY 2005 | | FY 2006 | | FY 2007 | |
|-------------|----------|-----------|----------|-----------|----------|-----------|
| | Title II | Title XVI | Title II | Title XVI | Title II | Title XVI |
| Favorable | 51% | 42% | 49% | 37% | 47% | 39% |
| Unfavorable | 37% | 44% | 38% | 44% | 40% | 45% |
| Dismissals | 12% | 14% | 13% | 19% | 13% | 16% |

Table C-7: Appeals Council Remands as a Percent of Total Dispositions for FY 2007

| Hearing Office | Number of Remands | Total Dispositions | Remands as a Percent of Dispositions |
|----------------|-------------------|--------------------|--------------------------------------|
| Dover | 107 | 1,646 | 6.50% |
| Baltimore | 211 | 5,486 | 3.85% |
| Washington, DC | 167 | 2,796 | 5.97% |
| Norfolk | 95 | 2,957 | 3.21% |

Table C-8: Court Remands as a Percent of Total Dispositions for FY 2007

| Hearing Office | Number of Remands | Total Dispositions | Remands as a Percent of Dispositions |
|----------------|-------------------|--------------------|--------------------------------------|
| Dover | 62 | 1,646 | 3.77% |
| Baltimore | 73 | 5,486 | 1.33% |
| Washington, DC | 117 | 2,796 | 4.18% |
| Norfolk | 14 | 2,957 | 0.47% |

How to File an *Unfair Treatment Complaint*

How To File An Unfair Treatment Complaint



The Social Security Administration wants to treat all claimants and their representatives fairly and equally. We do not treat you differently because of your race, sex, age or for disability, the amount of money you have, or for any other reason. Below we tell you more about what you should do if you think the Administrative Law Judge (ALJ) who conducted your hearing treated you unfairly.

What you should do if you think you were treated unfairly

If you think any ALJ treated you unfairly, you should tell us about it and ask us to look into it. You can ask even while we are deciding your claim for benefits.

You should give us your complaint in writing. But you also can tell us about your complaint, and we will write it down for you. Please give us as many details as you can, including:

- Your name, address and telephone number;
- Your Social Security number;
- Who treated you unfairly;
- How you think you were unfairly treated;
- When you think you were unfairly treated;
- The actions or words you thought were unfair;
- Who else saw or heard the unfair treatment; and
- If you are making the complaint for someone else, also give us your relationship to that person, and your name, address and telephone number.

What you need to know

Filing an unfair treatment complaint is not the same as appealing a decision. If you received a decision on your claim and you do not agree with it, you have 60 days from the date you receive the decision to ask for an appeal. The ALJ's decision letter will explain how to file an appeal. You can describe the unfair treatment in your appeal. For more information, ask for *The Appeals Process* (Publication No. 05-10041), which also is available online at www.socialsecurity.gov/pubs/10041.html.

www.socialsecurity.gov

Where to send your request

You can ask for help at any Social Security office to make your complaint. You also can write to:

The Chief Administrative Law Judge
Office of Disability Adjudication and Review
5107 Leesburg Pike, Suite 1608
Falls Church, VA 22041-3255

What Social Security will do

We will let you know that we received your complaint. Someone who has not been handling your claim before will look into the information you gave us in the complaint. You will be advised when the matter is closed.

If you also appealed the decision on your claim and included information about your complaint, the Appeals Council will address your complaint when responding to your appeal.

Contacting Social Security

For more information and to find copies of our publications, visit our website at www.socialsecurity.gov or call toll-free, 1-800-772-1213 (for the deaf or hard of hearing, call our TTY number, 1-800-325-0778). We treat all calls confidentially. We can answer specific questions from 7 a.m. to 7 p.m., Monday through Friday. We can provide automated phone service 24 hours a day.

We also want to make sure you receive accurate and courteous service. That is why we have a second Social Security representative monitor some telephone calls.



Social Security Administration
SSA Publication No. 05-10071
August 2008

Congressional Response Process at the Office of Disability Adjudication and Review

The Office of Disability Adjudication and Review (ODAR) has two Headquarters components that respond to congressional inquiries. These components are in the Division of Executive Operations (DEO), which serves as the liaison and the primary point of coordination for the exchange of information and direction between the Deputy Commissioner and other ODAR executives.

THE EXECUTIVE COMMUNICATIONS BRANCH

The Executive Communications Branch (ECB) uses the standards in the *Congressional Inquiries Guide*, a document issued by the Office of the Deputy Commissioner for Legislation and Congressional Affairs. ECB responds to congressional inquiries on behalf of the Commissioner and Deputy Commissioner. ECB does not respond to *Unfair Treatment Complaints* but instead refers them to the Office of the Chief Administrative Law Judge (OCALJ). The ECB provides an interim response to the congressional office if a final reply cannot be made within 12 working days after the receipt of an inquiry. Generally, subsequent interim responses (providing up-to-date status) are sent every 22 workdays until final resolution. When ECB expects it will be some time before there will be any change in status, it will provide an interim response indicating what stage of the process the claim is in (for example, pending in the Appeals Council) and explain that the office will notify the congressional office once subsequent action has been taken.

CONGRESSIONAL AND PUBLIC AFFAIRS BRANCH

The Congressional and Public Affairs Branch (CPAB) procedures require that a response to a new inquiry be provided to congressional staff within 5¹ working days from the date the inquiry is received. A 20-day due date will be assigned if the last response was a routine interim reply. A 90-day due date will be assigned if the last response was a substantial interim reply. According to CPAB staff, between January and June 2008, CPAB processed 1,874 written responses and 67,018 telephone inquiries.

OFFICE OF THE CHIEF ADMINISTRATIVE LAW JUDGE

All Congressional inquiries that involve an *Unfair Treatment Complaint* are referred to OCALJ. OCALJ acknowledges receipt of the complaint and notifies the congressional office of the result.

¹ During the first quarter of 2008, following our audit review period, CPAB increased the amount of time a new inquiry should be provided to congressional staff from 3 to 5 working days.

Selected Correspondence Between Congressman Gilchrest and the Office of Disability Adjudication and Review¹

An August 26, 2006 letter from Congressman Gilchrest's office to the Regional Chief Administrative Law Judge (RCALJ) in Region III² expressed concerns about procedures for hearing notifications, scheduling delays, the integrity of the hearings process, response time on inquiries and allegations of retaliation against claimants for making such inquiries

In an October 20, 2006 letter to the Congressman, the Deputy Commissioner for Disability Adjudication and Review noted that new procedures were being implemented to improve the disability determination process. The letter also stated, "I have directed members of my management team in the Dover Office of Disability Adjudication and Review to respond to the serious matters involving poor service."

On November 9, 2006, the Hearing Office Chief ALJ (HOCALJ) wrote to Congressman Gilchrest addressing some of the timeliness issues and noting that "without having case-specific information (Social Security Number or names), we are not able to provide a more detailed response."

On March 13, 2007, Congressman Gilchrest noted "The sheer volume of the complaint compilation now exceeds assessments of more than two-hundred disability cases" and noted he had received complaints from five law firms. The letter also noted concerns about a "...pattern of bias demonstrated in these cases reflects disdain for the permanently disabled on a scale that borders if not exceeds the federal law on discrimination against a protected class of people..." Congressman Gilchrest also requested a formal investigation of these complaints.

On March 29, 2007, the RCALJ for Region III wrote to Congressmen Gilchrest requesting specific information on the cases "so that we have all of the facts and can fully address each of [the] concerns."

On December 12, 2007, the Congressman's office sent the names and Social Security numbers (SSN) of 111 constituents with complaints about their hearings at the Dover Hearing Office. The list was broken down into three listings—one for each of three

¹ This is not an exhaustive list of all correspondence that took place between Congressman Gilchrest's office and OCALJ, which included other e-mails, additional written correspondence, and phone conversations.

² Region III includes Delaware, Maryland, Pennsylvania, Virginia, Washington, DC, and West Virginia.

ALJs in the hearing office. The largest group involved 61 cases related to the HOCALJ. Each listing contained the claimant's name, SSN, claimant's representative, decision date, and hearing decision.

On December 19, 2007, the RCALJ wrote to Congressmen Gilchrest noting "...we need to have a specific allegation tied to each case." The RCALJ also noted that the Office of Disability Adjudication and Review (ODAR) had received more information on two of the cases and an investigation would take place.

On April 1, 2008, the Chief ALJ wrote to Congressman Gilchrest and noted "Because of the number of general complaints we have received from your office about the Dover Hearing Office, we are in the process of conducting an audit of sample decisions issued by the Dover Hearing Office. This review will provide us with an objective assessment of the quality of the work in the Dover hearing Office...If allegations are found to be substantiated, appropriate action will be taken."

On April 7, 2008, a meeting was held between Congressman Gilchrest, other congressional staff, claimant representative attorneys, and the RCALJ. At the meeting ODAR advised the representatives and the congressional staff to send the complaints to them so that they could be reviewed by ODAR.

Status of 111 Hearing Claims Referred by Congressman Gilchrest's Office

Congressman Gilchrest's office sent the Office of Disability Adjudication and Review (ODAR) a list of 111 alleged complaints in December 2007 identifying the claimants' names, Social Security numbers and the administrative law judges (ALJ) who presided at the hearings. Although the claimants did not describe in their own words how they were treated unfairly, ODAR received sufficient information in each ALJ complaint for ODAR staff to query their systems to determine whether appeals had been filed. Many of these complaints have undergone further review, as shown below, demonstrating that a more detailed response could have been provided to the Congressman to indicate the status of the claims in question.

We found that as of September 2008, 53 of these claims had been appealed or a second request for hearing had been filed. Another 56 claims did not appear to have gone through additional review and 2 claims were not in the Case Processing and Management System. We also found that of the 53 cases undergoing additional review, 16 decisions were favorable, 19 decisions were unfavorable, and 18 were pending a decision.

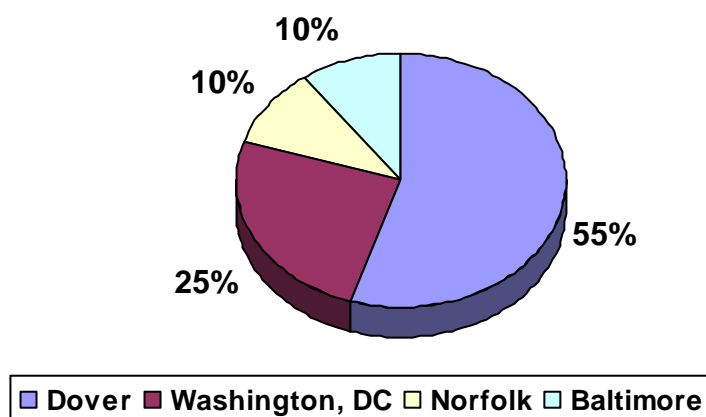
Table H-1: Status of 111 Constituent Claims
(As of September 2008)

| | No New Action on Case | Appeals Council Review | Court Remand | 2nd Hearing Request | No Records found | Total |
|-------------------------|-----------------------|------------------------|--------------|---------------------|------------------|------------|
| Number of Claims | 56 | 36 | 4 | 13 | 2 | 111 |

Unfair Treatment Complaints Provided by the Office of the Chief Administrative Law Judge

The Office of the Chief Administrative Law Judge (OCALJ) provided us with 20 *Unfair Treatment Complaints* received in Calendar Year (CY) 2007¹ and related to the 4 hearing offices serving Congressman Gilchrest's district.² We found the majority of the complaints related to the Dover Hearing Office.

Figure I-1: CY 2007 Unfair Treatment Complaints by Hearing Office



At the time of our review, 13 of these complaints had been closed and 7 were still pending. ODAR determined all 13 of the closed complaints to be unsubstantiated. We also found that it took ODAR an average of 5 months to review the 13 closed complaints, while the 7 pending complaints had been awaiting action for an average of 8 months. Moreover, 17 of the 20 individuals filing the complaints, or 85 percent, had also appealed their cases to the Appeals Council.

¹ In fact, one complaint was related to late CY 2006 and another to early CY 2008.

² The four hearing offices are located in Baltimore, Maryland; Dover, Delaware; Norfolk, Virginia; and Washington, DC.

DISTRIBUTION SCHEDULE

Commissioner of Social Security

Office of Management and Budget, Income Maintenance Branch

Chairman and Ranking Member, Committee on Ways and Means

Chief of Staff, Committee on Ways and Means

Chairman and Ranking Minority Member, Subcommittee on Social Security

Majority and Minority Staff Director, Subcommittee on Social Security

Chairman and Ranking Minority Member, Committee on the Budget, House of Representatives

Chairman and Ranking Minority Member, Committee on Oversight and Government Reform

Chairman and Ranking Minority Member, Committee on Appropriations, House of Representatives

Chairman and Ranking Minority, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations, House of Representatives

Chairman and Ranking Minority Member, Committee on Appropriations, U.S. Senate

Chairman and Ranking Minority Member, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations, U.S. Senate

Chairman and Ranking Minority Member, Committee on Finance

Chairman and Ranking Minority Member, Subcommittee on Social Security Pensions and Family Policy

Chairman and Ranking Minority Member, Senate Special Committee on Aging

Social Security Advisory Board

Overview of the Office of the Inspector General

The Office of the Inspector General (OIG) is comprised of an Office of Audit (OA), Office of Investigations (OI), Office of the Counsel to the Inspector General (OCIG), Office of External Relations (OER), and Office of Technology and Resource Management (OTRM). To ensure compliance with policies and procedures, internal controls, and professional standards, the OIG also has a comprehensive Professional Responsibility and Quality Assurance program.

Office of Audit

OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

Office of Investigations

OI conducts investigations related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Office of the Counsel to the Inspector General

OCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCIG also advises the IG on investigative procedures and techniques, as well as on legal implications and conclusions to be drawn from audit and investigative material. Also, OCIG administers the Civil Monetary Penalty program.

Office of External Relations

OER manages OIG's external and public affairs programs, and serves as the principal advisor on news releases and in providing information to the various news reporting services. OER develops OIG's media and public information policies, directs OIG's external and public affairs programs, and serves as the primary contact for those seeking information about OIG. OER prepares OIG publications, speeches, and presentations to internal and external organizations, and responds to Congressional correspondence.

Office of Technology and Resource Management

OTRM supports OIG by providing information management and systems security. OTRM also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, OTRM is the focal point for OIG's strategic planning function, and the development and monitoring of performance measures. In addition, OTRM receives and assigns for action allegations of criminal and administrative violations of Social Security laws, identifies fugitives receiving benefit payments from SSA, and provides technological assistance to investigations.