
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

HEARING OFFICE REMAND PROCESSING

September 2008

A-12-08-28036

AUDIT REPORT



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.



SOCIAL SECURITY

MEMORANDUM

Date: September 29, 2008

Refer To:

To: The Commissioner

From: Inspector General

Subject: Hearing Office Remand Processing (A-12-08-28036)

OBJECTIVE

Our objective was to determine whether hearing offices were properly tracking and timely processing remands, as required by the Social Security Administration's (SSA) policies and procedures.

BACKGROUND

The Office of Disability Adjudication and Review (ODAR) administers the hearings and appeals program for SSA. Administrative law judges (ALJ) conduct hearings and issue decisions. The hearing process begins after an applicant for benefits has been denied at the initial and reconsideration levels by a disability determination service. The next step in the appeals process is a hearing before an ALJ. A claimant who is dissatisfied with an ALJ decision on his or her claim may request that SSA's Appeals Council (AC) review the decision. The AC, which grants a request for review or reviews a case on its own, may issue a decision, dismiss the request for hearing, or remand the case to an ALJ for further development and proceedings. If the claimant is dissatisfied with the AC action, the claimant may seek a review of the case by a Federal district court. When the court remands a case to the Commissioner of Social Security, the remand is sent to the AC. The AC subsequently remands the case to an ALJ.

Remands represent the reworking of an initial hearing, often because the ALJ applied the wrong law, additional claimant or other witness testimony is needed and/or an issue was not properly developed.¹ Remands generally go back to the ALJ who decided the initial hearing, and the ALJ will generally address the AC and/or court's comments, hold

¹ Other reasons claims are remanded include (1) the claimant did not receive a fair hearing, (2) the ALJ issued a decision on the record but testimony is needed, (3) evidence from an expert is needed or (4) the ALJ's decisional rationale is insufficient. SSA Hearings, Appeals and Litigation Law (HALLEX) manual, I-3-7-1: *General*.

a new hearing and issue a new decision. Hearing offices are instructed to treat remands as a high priority workload. ODAR's HALLEX manual instructs hearing offices to flag remands and assign them immediately.²

Hearing Office Productivity

Hearing office dispositions and processing time are SSA's key criteria for analyzing hearing office performance. ODAR uses the electronic Key Workload Indicator (eKWI) report to compile the total number of AC and court remands processed quarterly and annually.

All dispositions,³ including remands, are included in SSA's *Number of Hearings Processed* performance indicator.⁴ In Fiscal Year (FY) 2007, ODAR processed approximately 550,000 dispositions with about 34,700 (6.3 percent) of those dispositions being remands; approximately 27,000 from the AC and 7,700 from Federal courts.⁵ Remand processing time⁶ is also included in SSA's *National Hearings Average Processing Time* performance indicator. In FY 2007, SSA's *National Hearings Average Processing Time* was 512 days for all dispositions.

Using ODAR's Case Processing and Management System (CPMS), we reviewed closed remands for FYs 2005 to 2007 to determine whether ODAR had sufficient controls in place to properly track and timely process remands. We also reviewed ODAR's eKWI reports, Chief ALJ reminders, CPMS management reports and training manuals regarding the processing of remand claims.⁷

RESULTS OF REVIEW

We found that ODAR accurately tracked the number of remands processed nationally. Remand dispositions vary among regions and hearing offices. For example, at two hearing offices, the remands represented more than 15 percent of their entire dispositions in FY 2007. We also found that the average processing time for remands was lower than the processing time for all dispositions, indicating remands were being given priority. Given the size and impact of the remand dispositions, we believe the

² SSA, HALLEX I-2-1-55: *Assignment of Service Area Cases to Administrative Law Judge*, section D.

³ According to SSA, dispositions are defined as the number of hearing requests processed, including favorable and unfavorable decisions issued, as well as requests that are dismissed.

⁴ Performance indicators are published in SSA's annual *Performance and Accountability Report*.

⁵ Only a portion of the cases appealed are remanded. For example, of the approximately 90,000 AC dispositions in FY 2007, about 23,500 claims were remanded to the hearing offices.

⁶ According to SSA, processing time for initial claims is defined as the elapsed time, from the *Initial Hearing Request Date* until the *Disposition Date*. Remand processing time is defined as the date of the remand order (*Remand Date*) until the *Disposition Date*.

⁷ See Appendix B for a further discussion of our Scope and Methodology.

Agency's performance indicators could better differentiate between initial hearings and remands and more accurately portray SSA's hearing dispositions. We also found that not all remands were being given priority treatment. For example, we found approximately 2,100 remands in the Commissioner's *Reduced Aged Claim* initiative with over 1,000 days of processing time.

Finally, we found that the remand information in CPMS contained incorrect processing dates for approximately 87 percent of the hearing offices. While date-coding errors have declined in recent years, additional training may be necessary at hearing offices. In addition, SSA could add an edit to CPMS to prevent the date-coding errors from occurring. Although we did not find evidence that these date-coding errors led to incorrect timeliness calculations, the coding problems could lead to confusion at hearing offices—especially at hearing offices with high error rates.

TRACKING REMANDS

Our review found ODAR was accurately tracking remands. As part of this analysis, we also found wide variances among remand dispositions nationwide. We found that the average processing time for remands was less than that of initial hearing cases. Finally, SSA's performance indicators did not differentiate between initial hearings and remands, though we see advantages to monitoring these dispositions separately.

Number of Remands Processed

We found that ODAR accurately tracked the number of remands during FYs 2005 to 2007 within its eKWI report.⁸ We performed an extract of all dispositions in CPMS and categorized the cases by type of disposition. We found that ODAR's AC and court-remand counts were accurately reported (see Table 1). The number of AC remand dispositions averaged about 27,000 each year, while the court-remand dispositions fluctuated from a high of 8,849 in FY 2005 to a low of 7,444 in FY 2006. As a percent of the entire hearing dispositions, AC remands were about 5 percent of the dispositions and court remands averaged 1.5 percent. Over 1,100 ALJs processed AC remand dispositions, and over 1,000 ALJs processed court-remand dispositions.⁹

⁸ We did not test the total dispositions since this was done in our May 2007 *Performance Indicator Audit: Hearings and Appeals Process* (A-15-06-16113).

⁹ For analysis on the variations in hearing office remands processed, see Appendix C.

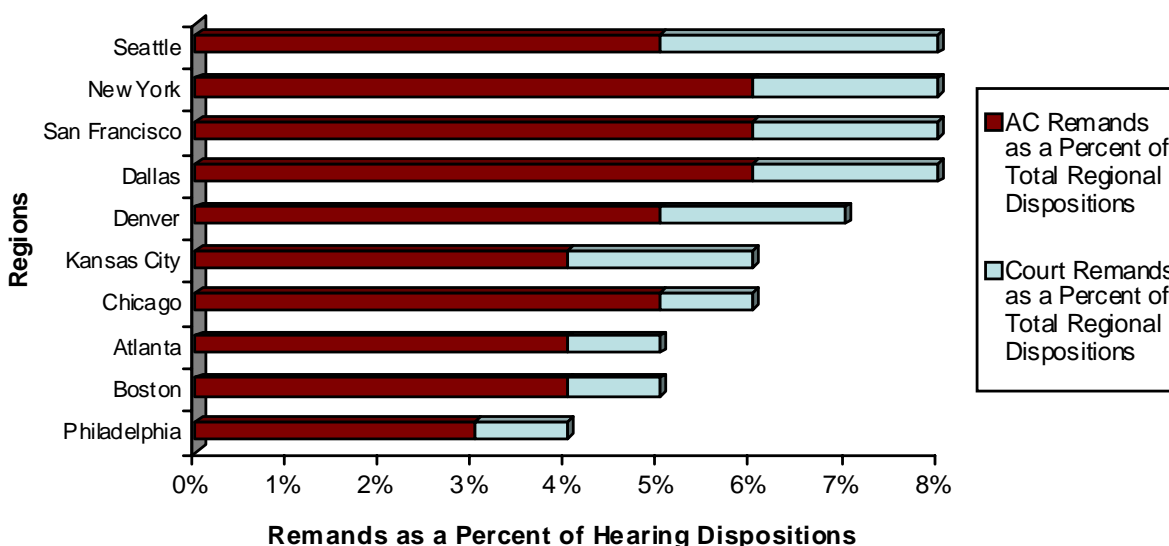
Table 1: Remand Dispositions from FYs 2005 to 2007

Fiscal Year	Appeals Council Remands			Court Remands		
	Number of Remand Dispositions	As a Percent of Total Dispositions	Number of ALJs with Remand Dispositions	Number of Remand Dispositions	As a Percent of Total Dispositions	Number of ALJs with Remand Dispositions
2005	27,055	5.2	1,126	8,845	1.7	1,031
2006	27,209	4.9	1,154	7,444	1.3	1,026
2007	26,967	4.8	1,178	7,745	1.4	1,076

Note: We compiled our remand disposition totals using the CPMS closed claims database, and our totals were within 0.75 percent of ODAR's eKWI yearly results.

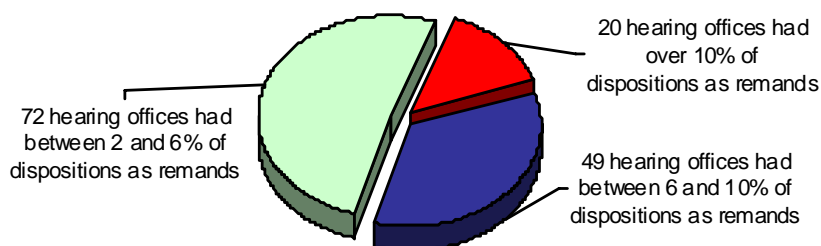
We found that while remands represented approximately 6.3 percent of the hearing dispositions in FY 2007, the remand dispositions varied by region and hearing office. In terms of ODAR's 10 regions, the remand dispositions as a percent of total hearing dispositions varied from 4 to 8 percent. For example, the Seattle, New York, San Francisco and Dallas Regions had the largest percentages, with 8 percent of their hearing dispositions as remand dispositions. The Philadelphia Region had the lowest percentage of total remand dispositions at 4 percent. The New York, San Francisco and Dallas Regions had 6 percent of their hearing dispositions as AC remand dispositions, while the Seattle Region had the highest percent of court-remand dispositions at 3 percent (see Figure 1).

Figure 1: FY 2007 Regional Remand Dispositions as a Percent of Hearing Dispositions



Remand disposition variances were even greater at the hearing office level. For example, 20 hearing offices had more than 10 percent of their entire dispositions as remands (see Figure 2). We found the highest rate at 2 hearing offices that had about 15.5 percent of their dispositions as remands. Another 49 hearing offices had between 6 and 10 percent of their dispositions as remands, while the remaining 72 hearing offices had between 2 and 6 percent of their dispositions as remands.¹⁰

**Figure 2: FY 2007 Remand Dispositions
as a Percent of Hearing Offices' Dispositions**



Remand Processing Time

We found that the hearing offices were processing remands more timely than other workloads.¹¹ We found that in FY 2007, the average processing time for remands was 339 days for AC remands and 369 days for court remands. This processing time is below the Agency's 512 days *National Hearings Average Processing Time* for all dispositions.¹² As noted earlier, ODAR policy requires that remands be assigned high-priority status when received in a hearing office so they should be held to shorter timeliness goals than initial hearings.¹³ Hearing offices are instructed to flag the remands and assign them immediately for processing.¹⁴

¹⁰ See Appendix C for a further discussion of the variation of the remand workload among ODAR's hearing offices.

¹¹ We did find some exceptions, which we note in the next section of this report.

¹² The 512 days includes the remand dispositions.

¹³ HALLEX I-2-8-18, *Administrative Law Judge Decisions in Court Remand Cases*, section B.2. and I-2-1-55, *Assignment of Service Area Cases to Administrative Law Judges*, section D.

¹⁴ SSA HALLEX I-2-1-55: *Assignment of Service Area Cases to Administrative Law Judges*, section D.

Remand Performance Indicators

SSA's performance indicators did not differentiate between initial hearings and remands, which may minimize management's ability to properly monitor this high-priority workload. In addition, these indicators did not recognize the remand workload and its role in both productivity and timeliness. Separate remand performance indicators could assist with the oversight of the remand workload.

Hearing Office Productivity and Timeliness

As noted earlier, remands represent the reworking of an initial hearing, usually because a step was not followed or an issue was not properly developed. However, their inclusion with initial hearings in SSA's *Number of Hearings Processed* performance indicator treats these two disparate workloads as the same process. Moreover, at the hearing office level, a greater number of remands would be seen in the system as greater productivity.

The same situation applies to the timeliness indicator. In general, remand cases were processed more timely than initial hearings.¹⁵ However, by combining remands and initial hearings in SSA's *National Hearings Average Processing Time* performance indicator again fails to recognize different workloads with different priorities. In addition, a hearing office with a high volume of remands may appear to be more timely, which may not be the best method for calculating performance indicators per hearing office.

Finally, we noted that in SSA's *Performance and Accountability Report*, the data definition for the *Number of Hearings Processed* and *National Hearings Average Processing Time* performance indicators did not include language recognizing the role of remands.

Remand and Performance Indicators

Because remands represent the reworking of an earlier case and remands are given high-priority status, we believe that SSA could develop separate or subsidiary performance indicators for remands to track the size and timeliness of these dispositions. We discussed this issue with officials from ODAR's Office of the Chief Administrative Law Judge and they were receptive to the idea.

Using the FYs 2005 to 2007 CPMS closed claims database, we recalculated the current *Number of Hearings Processed* and *National Hearings Average Processing Time* performance indicators to determine how they might change if remands were reported separately (see Tables 2 and 3). We believe these new numbers more accurately portray SSA's hearing workload and provide SSA management, the Congress and the public with the necessary information to better understand the Agency's workload.

¹⁵ We provide the processing time of initial hearings in the next section.

Table 2: Number of Dispositions Processed Not Including Remands

Fiscal Year	Number of Hearings	Number of Hearings Without Remands	Difference in Number of Hearings When Remands not Included
2005	519,359	483,455	35,904
2006	558,978	524,325	34,653
2007	547,951	513,239	34,712

Table 3: National Hearings Average Processing Time Not Including the Remand Processing Time

Fiscal Year	Average Processing Time All Claims (days)	Average Processing Time Without Remands (days)	Difference in Average Processing Time when Remands were not Included (days)
2005	443	448	5
2006	483	492	9
2007	512	525	13

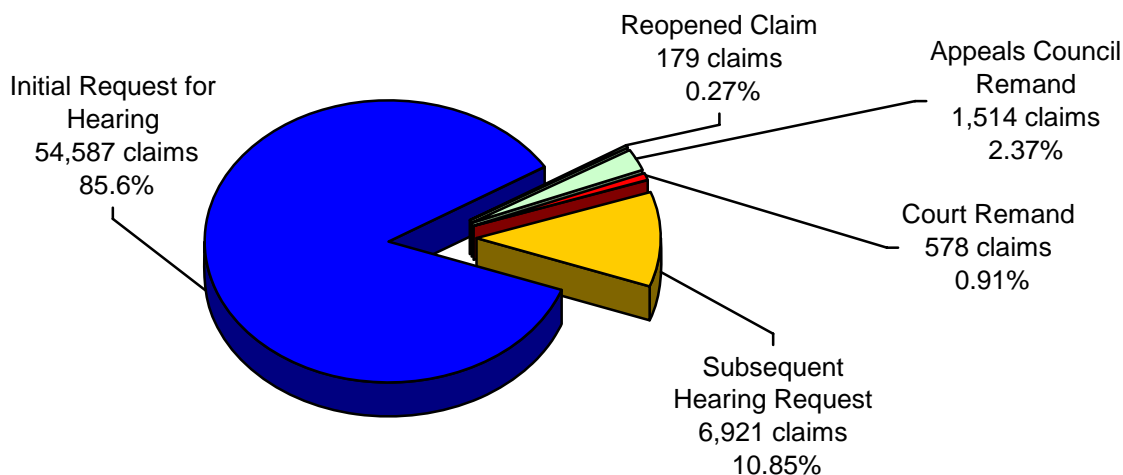
REMAND AND SSA'S AGED CASE INITIATIVE

We reviewed the remands that were part of SSA's FY 2007 *Reduced Aged Claim* initiative for cases that would be 1,000 days or older by the end of the FY 2007. This initiative began as part of the overall *Hearing Backlog Initiatives* at SSA to eliminate the backlog and prevent its recurrence.¹⁶

We found approximately 2,100 remands that were processed in the *Reduced Aged Claim* initiative (see Figure 3). About 86 percent of the cases under the initiative were *Initial Requests for Hearings*. However, remands made up approximately 3.3 percent of the total.

¹⁶ In October 2007, SSA's Commissioner issued a News Release that announced SSA had virtually eliminated its backlog of aged disability hearing cases. ODAR defined Aged cases as those pending 1,000 days or more. The Aged claims were reduced from about 64,000 cases at the beginning of FY 2007 to a few cases at the end of FY 2007. In FY 2008, the Agency redefined "aged cases" to include pending claims that are at least 900 days in the hearing process.

Figure 3: Distribution of 1,000 Day Old Claims by Hearing Type



To understand why some remands were taking an excessive number of days to process, we reviewed the 10 oldest remands from our 50 claim sample.¹⁷ The processing time on the remands ranged from 1,204 to 1,839 days. Some of the characteristics for these remands included the following.¹⁸

- **Need for Additional Medical Evidence:** For 6 of the 10 claims, the ALJ requested new psychological examinations. These claims spent extended periods of time in pre-hearing development.¹⁹
- **Scheduling Difficulties:** Of the 10 claims, 6 were rescheduled for a hearing multiple times (the most being 6 times) with lengthy periods before a hearing was held.²⁰
- **Other Issues:** For one claim, the hearing was held and the ALJ made a decision, but hearing office managers waited almost 400 days to assign the claim to a Decision Writer to write the final decision.

¹⁷ We are planning a separate audit that will examine the reasons claims become aged in the hearing offices.

¹⁸ For a more detailed listing of these characteristics, see Appendix D.

¹⁹ For an explanation of the hearing office processing stages, see SSA Office of the Inspector General report, *Case Processing and Management System and Workload Management (A-12-06-26012)*, June 2006.

²⁰ Some of the characteristics are not mutually exclusive. For instance, some of the claims that required psychological examinations were rescheduled for hearings multiple times.

According to ODAR executives, remands require a lot of attention at each stage of the hearing process, including the following.

- [Pre-Hearing Development](#): Some remands are old, and obtaining new medical information takes time.
- [ALJ Review Pre-Hearing](#): ALJs must review all the medical history, which can be quite extensive. Also, ALJs must ensure the case is consistent with the remand order.
- [Scheduling](#): A new hearing with new experts must be scheduled.
- [Decision Making](#): Claims are older so it is more difficult to determine the date of alleged onset related to the disability.
- [Decision Writing](#): Remands are difficult to write and require extensive editing.

REMAND MANAGEMENT INFORMATION

We found incorrect remand dates in CPMS, though SSA has issued consistent guidance and training about inputting the correct remand date into CPMS. CPMS edits already exist to improve date-coding, and an additional automated error alert could prevent the remand date-coding error we detected from occurring in the future. These date-coding errors did not impact the reported average processing time.

Remand Date-Coding Errors

ODAR did not have sufficient controls over input of remand-related processing dates into CPMS, though the relative size of the date-coding problem has declined over time. We examined all remand dispositions in the CPMS database during FYs 2005 to 2007 and found that most of the hearing offices were miscoding the remand dates in CPMS. Specifically, hearing office staff input the wrong dates in CPMS for remand claims—the same date was being used for the *Initial Request for Hearing Date* and the *Remand Date*.²¹ Nationwide, these date-coding errors ranged from 21 to 38 percent of all AC remands and from 20 to 25 percent of all court remands. We also found that the number of date-coding errors had consistently decreased during the 3-year period we reviewed, from a high of about 38 percent of all AC remands in FY 2005 to about 21 percent in FY 2007 (see Table 4), indicating the coding has improved over time. The court-remand date-coding error rate has also decreased from about 25 percent in FY 2005 to about 20 percent in FY 2007.

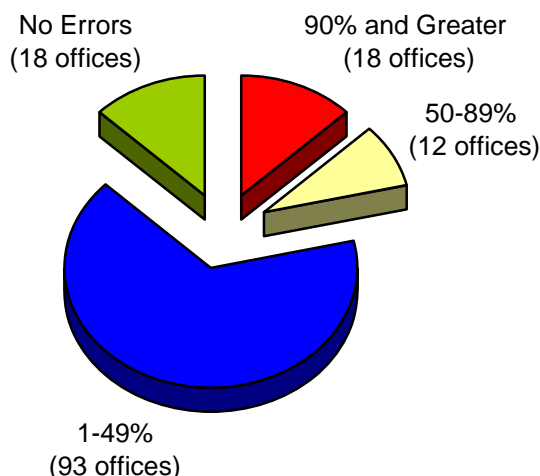
²¹ The processing time of remands and regular cases is captured in the *SSA Hearings Average Processing Time* performance indicator. For pending claims, both the *Initial Request for Hearing Date* and the *Remand Date* can be entered and changed by hearing office staff. However, the *Initial Request for Hearing Date* should never be the same as the *Remand Date*.

Table 4: Date-Coding Errors in Remand Dispositions (FYs 2005 – 2007)

Fiscal Year	Appeals Council Remands			Court Remands		
	Number of Remand Dispositions	Number of Date-Coding Errors	Error Rate (percent)	Number of Remand Dispositions	Number of Date-Coding Errors	Error Rate (percent)
2005	27,055	10,398	38	8,845	2,205	25
2006	27,209	6,817	25	7,444	1,531	21
2007	26,967	5,692	21	7,745	1,521	20

We conducted additional analysis on the hearing offices with date-coding errors in FY 2007. For instance, we found that 87 percent of the hearing offices had at least one date-coding error among their remand dispositions. In terms of date-coding errors as a percent of a hearing office’s dispositions, we found that 18 hearing offices had date-coding error rates of 90 percent or greater,²² 12 hearing offices had between a 50 and 89 percent date-coding error rate, and 93 hearing offices had between a 1 and 49 percent error rate. The remaining 18 hearing offices had no date-coding errors (see Figure 4).

Figure 4: Hearing Offices by Volume of Coding Errors FY 2007 Appeals Council Remand Dispositions



According to ODAR officials, the remand date-coding error occurred because remands represented a smaller workload at the hearing office, and hearing office staff was unsure what date to enter into CPMS for remands. When CPMS was installed, hearing office employees received training on how to input remand dates into CPMS.²³

²² We provided the data associated with these 18 hearing offices to ODAR management.

²³ In the *CPMS Training Manual*, Module 3, page 28, hearing office employees are instructed to: "Enter the date the Appeals Council sent the claim back to the hearing office (*Appeals Council Remand Date*) or in the case of a court remand (*Court Remand Date*)."

Date-Coding Guidance

When we initially discovered the remand date-coding error as part of our preliminary analysis, we notified officials at ODAR's Office of the Chief Administrative Law Judge. In July 2007,²⁴ ODAR's Chief ALJ issued a reminder to all hearing office employees about the procedures for entering the correct date for remands into CPMS. We reviewed the remands that were closed for the 2 months after the Chief ALJ's reminder and determined that the remands with date-coding errors declined slightly to about 17 percent.²⁵

In July 2008, we spoke to the hearing office directors at five of the hearing offices that had the highest remand date-coding error rates in FY 2007. These directors were uncertain about which date to input into CPMS for remands leading to uncertainty about the process.

We asked ODAR if the closed remands with date-coding errors could be corrected so that the accuracy of the CPMS electronic files could be improved. However, ODAR officials told us closed claims in CPMS can only be viewed and not changed. In our discussions with ODAR about preventing the remand date-coding error from occurring in the future, ODAR suggested that the correct dates could be propagated automatically from AC-level data into CPMS using the Office of Appellate Operations Appeals Review Processing System, rather than hearing office staff manually inputting the data into CPMS. The Appeals Review Processing System is a new Intranet case processing system that handles SSA's administrative appeals process at the AC level. ODAR staff stated that this automated action will require system enhancements.

Management Reports at Hearing Offices

At the hearing office level, managers and staff use the Auxiliary Monthly Activity Report and the CPMS Workload Listings for tracking and managing AC and court-remand claims. These Workload Listings illustrate the pending remand claims in the hearing office. The Listings automatically sort the remands by the *Remand Date* (age of the remand) and also includes other identifying information on the claim including the status and stage of processing.

Before our audit work, the CPMS Workload Listings for remands were sorted by the *Initial Request for Hearing Date* on the claim and not on the *Remand Date*. This sorting did not accurately show the true age of the remand, leading to incorrect management information when identifying the oldest remands. In a recently updated CPMS Release,

²⁴ In December of 2004, the Chief ALJ issued a memorandum to its Regional Management Teams to ensure that the correct remand date was entered into CPMS.

²⁵ As noted in Table 4, the overall date-coding error rate for FY 2007 was 21 percent for AC remands and 20 percent for court remands.

the remand Workload Listings now sort the remands by the *Remand Date* instead of by the *Initial Request for Hearing Date*, which provides the hearing offices with more accurate management information on the true age of the remands.

CPMS Edits

When remand case information is placed into CPMS, the system has a date-checking function that creates an error alert for specific types of date combinations. For instance, an *Application Date* cannot be later than the *Hearing Request Date*. If hearing office staff enters an *Application Date* that is later than the *Hearing Request Date*, an error alert appears on the screen notifying staff that these dates need to be reviewed. Moreover, CPMS will not allow the claim to be added until the hearing office staff changes the *Application Date* to an earlier date than the *Hearing Request Date*. However, our review of these edits found that CPMS did not have an error alert if the *Initial Hearing Request Date* was the same as the *Remand Date*. ODAR could improve the accuracy of CPMS data by adding another error alert associated with the types of errors we identified in this report.

Date-Coding Errors and Timeliness

We did not find any evidence that the date-coding error affected SSA's *National Hearings Average Processing Time* performance indicator. Staff in SSA's Office of Systems, which generates the performance indicator data noted that they were not relying on these same date fields for their calculations. However, these errors have created inaccuracies in CPMS electronic files and may have created confusion during case processing at the hearing offices.

CONCLUSION AND RECOMMENDATIONS

We found that ODAR accurately tracked the number of remands processed nationally, and the average processing time for remands was lower than the processing time for all dispositions, indicating remands were being given priority. However, given the size and impact of the remand workload, we believe the Agency's performance indicators could better differentiate between initial hearings and remands and more accurately portray SSA's hearing workload. In addition, we found that not all remands were being given priority treatment. For example, approximately 2,100 remands in the *Aged Claim* initiative were approaching or exceeded 1,000 days of processing time. Finally, we found that the remand information in CPMS contained incorrect processing dates for approximately 87 percent of the hearing offices, indicating additional training may be necessary at hearing offices. In addition, we found SSA could add an edit to CPMS to prevent the date-coding errors from occurring. Although we did not find evidence that these date-coding errors led to incorrect timeliness calculations, the coding problems could lead to confusion at hearing offices—especially at hearing offices with high error rates for date-coding.

To improve management controls over the tracking and timely processing time of remands, we recommend SSA:

1. Consider establishing separate or subsidiary performance indicators related to remand productivity and timeliness to assist the users of ODAR data. If SSA decides not to establish a separate indicator for remands, the Agency should update the data definition for these performance indicators explaining the role of remands.
2. Provide refresher training to hearing offices that have high date-coding error rates when inputting the remands into CPMS.
3. Add an edit to CPMS so that an error alert is generated if the *Initial Request for Hearing Date* is the same as the *Remand Date*.
4. As soon as practical, automate date-coding within CPMS to eliminate manual errors.
5. Ensure remands are closely monitored by management and processed according to ODAR's policy.

AGENCY COMMENTS AND OIG RESPONSE

The Agency partially concurred with the first recommendation and fully concurred with the remaining four recommendations. In terms of the first recommendation, the Agency stated that establishing a new and separate performance indicator to capture remand productivity may not be useful or advisable. However, the Agency updated the data definitions to include remands for three hearing-level performance indicators. See Appendix E for the full text of the Agency's comments.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Hearing Office Variations in Remand Processing

APPENDIX D – Characteristics of Aged Remands

APPENDIX E – Agency Comments

APPENDIX F – OIG Contacts and Staff Acknowledgments

Acronyms

AC	Appeals Council
ALJ	Administrative Law Judge
CPMS	Case Processing and Management System
eKWI	Electronic Key Workload Indicator
FY	Fiscal Year
HALLEX	Hearings, Appeals and Litigation Law Manual
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
SSA	Social Security Administration

Scope and Methodology

To meet our objective, we:

- Reviewed hearing office guiding principles and procedural guidance documented in the Office of Disability Adjudication and Review's (ODAR) Hearings, Appeals and Litigation Law manual, the *Case Processing and Management System (CPMS) Training Manual* and the *2006 Legal Assistant Training Manual*.
- Reviewed prior Social Security Administration (SSA) Office of the Inspector General and Government Accountability Office reports.
- Reviewed ODAR's electronic Key Workload Indicator (eKWI) reports, CPMS National Ranking Reports, SSA's Tracking Reports and SSA's Fiscal Year (FY) 2007 *Performance and Accountability Report*.
- Compiled remand statistics using ODAR's FY 2007 eKWI report and CPMS closed claim databases for FYs 2005 through 2007.
- Analyzed the FY 2005 through 2007 CPMS remand data to ensure appropriate dates were being used for the initial hearings and remands.
- Reviewed the layout of the information in the CPMS input and query screens to determine what information was available to users and whether the system was being appropriately used to assist with remand processing.
- Reviewed Chief Administrative Law Judge memorandums related to remand processing.
- Reviewed SSA's *Reduced Aged Claim* initiative for FYs 2007 and 2008 and SSA's *Plan to Eliminate the Hearings Backlog and Prevent its Recurrence*.
- Contacted ODAR personnel in Falls Church, Virginia, and the hearing offices to learn about the remand process and discuss the results of our audit work. We also shared the listing of cases with date-coding errors so that ODAR management could review our findings and take appropriate actions.

We found the disposition data used in our review to be sufficiently reliable to meet our audit objective with the exception of those data issues discussed in the body of this report. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted this performance audit from September 2007 through May 2008 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.

Hearing Office Variations in Remand Processing

In our review of the Fiscal Year (FY) 2007 remand information, we found that two hearing offices that had more than 10 percent of their FY 2007 hearing dispositions as remands were in McAlester, Oklahoma and San Bernardino, California (see Table C-1). Of the hearing offices with more than 15 percent of their FY 2007 dispositions as remands, the Dallas (north) Hearing Office processed the most AC remands with 515 claims, followed by the Cleveland Hearing Office with 468 claims. Within this same group, the San Bernardino Hearing Office processed the most court remands with 263 claims, followed by the Seattle Hearing Office with 200 claims.

Table C-1: Hearing Offices with FY 2007 Remand Dispositions that were Greater than 10 Percent of Their Total Hearing Dispositions¹

Hearing Office Name	Number of Appeals Council Remands	Number of Court Remands	Total Hearing Dispositions Including Remands	Remands as a Percent of Hearing Dispositions
McAlester, Oklahoma	105	55	1,032	15.5
San Bernardino, California	270	263	3,461	15.4
Long Beach, California	222	116	2,334	14.5
Downey, California	197	99	2,118	14.0
Queens, New York	316	130	3,274	13.6
Hattiesburg, Mississippi	423	6	3,378	12.7
Los Angeles (downtown), California	206	110	2,644	12.0
Colorado Springs, Colorado	269	71	2,854	11.9
Fort Worth, Texas	436	78	4,440	11.6
Middlesboro, Kentucky	127	138	2,387	11.1
Newark, New Jersey	378	130	4,592	11.1
Orange, California	143	82	2,046	11.0
Cleveland, Ohio	468	106	5,230	11.0
Bronx, New York	344	105	4,339	10.3
Dover, Delaware	107	62	1,646	10.3
Houston, Texas	472	73	5,315	10.3
Atlanta, Georgia	347	92	4,306	10.2
Washington, District of Columbia	167	117	2,796	10.2
Dallas (north), Texas	515	65	5,750	10.1
Seattle, Washington	446	200	6,423	10.0

Note: We compiled the remand disposition data using the Social Security Administration's FY 2007 Case Processing and Management System database of closed claims.

Characteristics of Aged Remands

We obtained a list of the claims identified in the Social Security Administration's (SSA) *Reduced Aged Claim* initiative.¹ The list contained over 2,100 remands that were over 1,000 days old at the time of their final disposition.² We randomly selected 50 remands and selected the 10 oldest remands from the 50 claims sampled.

The processing times on the remands ranged from 1,204 days to 1,839 days (see Table E-1). Some of the major characteristics about these remands include the following.

- [Need for Additional Medical Evidence](#): For 6 of the 10 claims, the ALJ requested new psychological examinations. These claims spent extended periods of time in pre-hearing development.³
- [Scheduling Difficulties](#): Of the 10 claims, 6 were rescheduled for a hearing multiple times (the most being 6 times) with lengthy periods before a hearing was held.⁴
- [Other Issues](#): For one claim, the hearing was held and the ALJ made a decision, but hearing office managers waited almost 400 days to assign the claim to a Decision Writer to write the final decision.

¹ In October 2007, SSA's Commissioner issued a News Release that announced SSA had virtually eliminated its backlog of aged disability hearings cases. Aged cases, defined as cases pending 1,000 days or more, were reduced from about 64,000 cases at the beginning of Fiscal Year (FY) 2007 to a few cases at the end of FY 2007. In FY 2008, the Agency redefined "aged cases" to include pending claims that were at least 900 days in the hearing process.

² We are in the planning stages of a separate audit that will examine the reasons claims become aged in the hearing offices.

³ For an explanation of the hearing office processing stages, see SSA Office of the Inspector General report, *Case Processing and Management System and Workload Management (A-12-06-26012)*, June 2006.

⁴ Some of the characteristics are not mutually exclusive. For instance, some of the claims that required psychological examinations were rescheduled for hearings multiple times.

Table D-1: Reasons Why Remand Claims Took over 1,000 Days to Process

Disability Indicator	Decision	Psychological Examination	Rescheduled for a Hearing	Development Delays	Age of Claim
Other Fracture of Bones	Unfavorable	Yes	Rescheduled 3 times, elapsed time of 1,351 days	NA	1,839
Affective Disorder	Favorable	Yes	Rescheduled 2 times, elapsed time of 1,345 days	Two psychiatric examinations	1,521
Affective Disorder	Unfavorable	No	Rescheduled 6 times, elapsed time of 963 days	Hearing office requested medical evidence five different times	1,406
Affective Disorder	Favorable	Yes	Rescheduled 3 times, elapsed time of 678 days	Post-development 409 days	1,350
Affective Disorder	Favorable	Yes	No scheduling problem	Pre-hearing development for 1,204 days	1,308
Back Disorder	Unfavorable	Yes	Rescheduled 5 times, elapsed time of 1,014 days	Hearing office had to wait 761 days for a psychological examination	1,795
Back Disorder	Unfavorable	Yes	No scheduling problem	ALJ Review – Pre-Hearing for 464 days Post-hearing development for 385 days	1,309
Rheumatoid Arthritis	Unfavorable	No	Rescheduled 3 times, elapsed time of 487 days	Unassigned writing for 398 days	1,204
N/A	Abandoned	No	No scheduling problem	Pre-hearing development for 1,177 days	1,427
N/A	Abandoned	No	No scheduling problem	Pre-hearing development for 1,137 days	1,429

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: September 18, 2008 **Refer To:** S1J-3

To: Patrick P. O'Carroll, Jr.
Inspector General

From: David V. Foster /s/
Executive Counselor to the Commissioner

Subject: Office of the Inspector General (OIG) Draft Report, "Hearing Office Remand Processing"
(A-12-08-28036)--INFORMATION

We appreciate OIG's efforts in conducting this review. Our response to the report findings and recommendations is attached.

Please let me know if we can be of further assistance. Direct inquiries to Ms. Candace Skurnik, Director, Audit Management and Liaison Staff, at extension 54636.

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, "HEARING OFFICE REMAND PROCESSING" (A-12-08-28036)

Thank you for the opportunity to review and comment on the draft report. Our response to the specific recommendations is provided below.

Recommendation 1

Consider establishing separate or subsidiary performance indicators related to remand productivity and timeliness to assist the users of Office of Disability Adjudication and Review (ODAR) data. If the Social Security Administration (SSA) decides not to establish separate indicators for remands, the agency should update the data definition for these performance indicators explaining the role of remands.

Comment

We partially agree. Establishing a new and separate performance indicator to capture remand productivity may not be useful or advisable. The report already finds that ODAR is accurately tracking this workload and addressing it as a priority. In addition, when establishing a new performance indicator, the responsible component must consider: 1) the resources necessary to process the workload; 2) whether it can be quantified for budget submissions; 3) whether a target can be identified and met; and 4) whether it is useful to the component and to external audiences. Furthermore, as with receipts, the number of remands each year is difficult to predict, which makes it difficult to set a target. Finally, the agency considered performance indicators associated with remands in fiscal year (FY) 2006, but decided not to pursue them.

On August 8, 2008, we updated the data definitions to include remands for the following hearing-level performance indicators: 1) achieved budgeted goal for SSA hearings processed (at or above the FY 2008 goal); 2) maintain the number of SSA hearings pending (at or below the FY 2008 goal); and 3) achieve the budgeted goal for average processing time for hearings (in days). The FY 2008 Performance and Accountability Report and FY 2010 Annual Performance Plan will reflect the new data definitions.

Recommendation 2

Provide refresher training to hearing offices that have high date-coding error rates when inputting the remands into the Case Processing Management System (CPMS).

Comment

We agree. However, we do not believe the problem is widespread and, accordingly, we will handle isolated incidences of coding errors through headquarters and regional oversight. We previously issued a Chief Judge Bulletin (CJB) that clearly explains the correct instructions; we also provided training material to OIG. Data shows the problem is resolving. Our CJB can be found at:

<http://policynet.ba.ssa.gov/reference.nsf/1bb8ac5165f7ca5d85256c230074491b/7b3b4308945e553f85257322004c7423!OpenDocument>

Recommendation 3

Add an edit to the CPMS so that an error alert is generated if the Initial Request for Hearing Date is the same as the Remand Date.

Comment

We agree. While instructions have been distributed to hearing offices on how to properly code CPMS entries for remands, an edit to prevent the hearing request and remand dates from being keyed as the same date is a good idea. This is technically feasible and can be added to CPMS. We will include this as part of our Hearing Office Productivity Enhancements CPMS project Resource Accounting System (RAS) #2114 for the March 2009 release. It can be folded into the current work year (WY) allocation. This will improve the accuracy of management information (MI) and ensure remands are processed in a more expedient manner. Additionally, now that we have the new Appeals Review Processing System (ARPS), propagation of the correct remand dates will be possible on electronic cases and has been approved by the Information Technology Advisory Board (ITAB) for future modifications.

Recommendation 4

As soon as practical, automate date-coding within CPMS to eliminate manual errors.

Comment

We agree. Automation of date-coding is a good idea and would be beneficial in reducing remand date-coding errors. As indicated above, now that we have ARPS, propagation of the correct dates will be possible on electronic cases and was approved by ITAB for future modifications. When the Appeals Council (AC) remands a case to the hearing office and the user reactivates the case, CPMS will use the date from the AC as the remand date instead of the system date. It is complicated and not feasible to implement this for non-electronic cases as there is no easy way to match the AC case with the CPMS case on the manually established cases. Additionally, as more cases are electronically processed, the number of date coding errors will continue to drop. This software change will be included in the March 2009 release of CPMS project RAS # 2114. It can be included under the current WY allocation. Any edits made to the CPMS programmatic system to ensure that remand dates are correct will improve the accuracy of the MI that we use.

Recommendation 5

Ensure remands are closely monitored by management and processed according to ODAR's policy.

Comment

We agree. ODAR will track remands using workloads listing in CPMS to ensure remands are given priority and processed consistent with policy.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Walter Bayer, Director, Chicago Audit Division (312) 353-0331

Nicholas Milanek, Audit Manager, Falls Church Office (703) 578-8844

Acknowledgments

In addition to those named above:

Faisal Khan, Auditor

Yaquelin Lara, Auditor

Brennan Kraje, Statistician

For additional copies of this report, please visit our web site at www.socialsecurity.gov/oig or contact the Office of the Inspector General's Public Affairs Staff Assistant at (410) 965-4518. Refer to Common Identification Number A-12-08-28036.

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.