
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**WORKLOAD ACTIVITY AT
FIVE HEARING OFFICES
IN REGION IV**

September 2007

A-12-07-27091

AUDIT REPORT



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SOCIAL SECURITY

MEMORANDUM

Date: September 10, 2007

Refer To:

To: The Commissioner

From: Inspector General

Subject: Workload Activity at Five Hearing Offices in Region IV (A-12-07-27091)

OBJECTIVE

Our objective was to determine whether claims are assigned to Administrative Law Judges (ALJ) in accordance with the Office of Disability Adjudication and Review (ODAR) policy.

BACKGROUND

The Social Security Act¹ requires the Commissioner of the Social Security Administration (SSA) to provide a claimant with reasonable notice and opportunity for a hearing. The claimant may appoint an attorney or other qualified individual to obtain and present evidence on his or her behalf at the hearing. The Commissioner has delegated to ALJs the authority to hold hearings and issue decisions. Within each hearing office, the Hearing Office Chief Administrative Law Judge (HOCALJ), under the delegation of ODAR's Chief Administrative Law Judge (CALJ), has the authority to assign cases to ALJs on a rotational basis as stipulated by ODAR's Hearings, Appeals and Litigation Law (HALLEX) manual.²

We received information that not all of the hearing offices in Region IV were adhering to ODAR's rotational policy. To verify this information, we analyzed final disposition records over a 25-month period that contained ALJ, claimant representative and claim history information from five hearing offices³ in Region IV. We also interviewed ODAR's CALJ and ODAR's Region IV Management Team, as well as ALJs, managers and office

¹ Social Security Act [42, U.S.C 405] § 205(b), 1631(c) (1935).

² HALLEX I-2-1-55: *Assignment of Service Area Cases to Administrative Law Judges.*

³ The hearing offices were similar in size, had similar number of dispositions over a 25-month review period (June 2004 through July 2006), and were all located in Region IV. The hearing offices were: Atlanta (downtown), Georgia; Jacksonville, Florida; Fort Lauderdale, Florida; Mobile, Alabama; and Orlando, Florida.

support staff at the five hearing offices. See Appendix B for a further discussion of our scope and methodology.

RESULTS OF REVIEW

We found that over a 6-year period, the Fort Lauderdale HOCALJ did not follow ODAR's policy of assigning claims to ALJs on a rotational basis. Instead, the HOCALJ has operated a "pilot" program (Pilot) that has allowed him to hear claims from selected representatives. We found the Pilot had no documented goals, objectives or measures for success. In addition, the HOCALJ has operated the Pilot without approval or knowledge of its existence by ODAR's Headquarters and Region IV managers. Moreover, only a few representatives participate in the Pilot and the HOCALJ heard most of the Pilot claims. Consequently, four representatives had over 50 percent of their caseloads with the HOCALJ, far beyond the anticipated rate under a rotational policy. An independent assessment of the Pilot will be necessary to determine its role in the Fort Lauderdale Hearing Office's productivity and overall merit.

ODAR'S ROTATIONAL POLICY

Unlike the other four hearing offices we reviewed, the Fort Lauderdale Hearing Office was not following ODAR's rotational policy for assigning cases to ALJs. The HOCALJ created a pilot program where a limited number of selected representatives brought cases before him.

Current Policy

ODAR's CALJ and ODAR's Regional Chief Administrative Law Judge (RCALJ) for Region IV confirmed that all hearing offices must follow the rotational policy as stated in HALLEX. The CALJ said the HALLEX rotational policy is based on the Administrative Procedures Act⁴ and that the rotational policy benefits the claimants.⁵ The RCALJ stated that the rotational policy is necessary to:

- ensure the appearance of fairness in that there is no pre-selection of ALJs by the claimant and/or his or her representative;
- distribute the workload evenly, thereby improving hearing office efficiency;
- adhere to the Agency's policy of public service; and
- keep up office morale.

⁴ Administrative Procedures Act, 5 U.S.C., Subchapter II, § 556 (1946).

⁵ We did not independently assess the merits of a rotational policy in this review.

The 11 Judges (5 HOCALJs and 6 ALJs) we interviewed had similar understandings about the rotational policy. They stated that having a rotational policy:

- creates a sense of fairness for the ALJs;
- prevents claimants or representatives from shopping for a particular ALJ;
- ensures that claimants are treated fairly; and
- prevents ALJs from picking and choosing claims based on the representative.

Pilot Program

The Fort Lauderdale HOCALJ suspended ODAR's policy of assigning cases to ALJs on a rotational basis as part of a Pilot that he created and has operated for the past 6 years without the knowledge or approval of the RCALJ. In our review of the other four hearing offices in Region IV, we found that all of these offices followed the HALLEX policy regarding case rotation.

To participate in the Pilot, the claimants and their representatives agreed to:

- waive the 20-day Advanced Notice of Hearing;
- present the case to the HOCALJ as unpulled;⁶ and
- write and present the favorable decision⁷ to the hearing office.⁸

The HOCALJ selected the representatives who could participate in the Pilot.⁹ If the claim had a representative participating in the Pilot, it was assigned from the Master

⁶ "Pulling" is the term hearing offices use when organizing documents in a claim folder before the hearing. Hearing office technicians are primarily responsible for organizing and exhibiting the claimant's information in the claim folder. For unpulled claims, the claimant's information is not organized into categories or placed in chronological order and an Exhibit List is not prepared. Therefore, hearing office technicians' time is not spent organizing information in the claim folder.

⁷ Outside assistance with decision writing is not unique to the Pilot. ODAR allows claimants and their representatives to assist with the writing of favorable decisions (see HALLEX I-2-8-13: *Use of Language Supplied by Claimants and Representatives in Preparation of Fully Favorable Decisions*). If the decision is not favorable, either the ALJ or a Decision Writer will write the decision.

⁸ To improve the quality of the decisions submitted by the representatives, ODAR has placed their Findings Integration Templates on SSA's internet. The templates are a decision-writing tool designed to improve the quality and consistency of ODAR decisions and includes about 1,700 templates.

⁹ The Pilot began with about 20 representatives. However, some representatives later dropped out on their own and others were asked to leave by the HOCALJ. The HOCALJ stated that he asked some representatives to drop out because they could not keep up with the pace of writing the favorable decisions.

Docket¹⁰ to either the HOCALJ, or occasionally, to another ALJ in the hearing office.¹¹ Claims not in the Pilot were assigned to the remaining ALJs in the hearing office on a rotational basis.

When we met with the HOCALJ to discuss the Pilot, he was unable to provide documentation regarding the objectives, goals, and initial approvals related to the Pilot. What we did learn about this Pilot came from our interviews with the HOCALJ and the Hearing Office Director (HOD), as well as an email from July 2001 listing some of the representatives chosen for the Pilot. We also learned that the Pilot is being conducted without approval or knowledge of its existence by ODAR's Headquarters or Region IV Managers. In addition, we found no evidence that an evaluation had been conducted to assess the strengths and weaknesses of the Pilot.

In terms of workload, we found that the HOCALJ and another ALJ held the vast majority of the Pilot hearings.¹² While we were unable to calculate the precise number of dispositions¹³ that were decided under this Pilot,¹⁴ we found that the HOCALJ and one other ALJ decided a total of 2,722 cases of Fort Lauderdale's 10,474 dispositions during a 25-month period.¹⁵ Assuming not every case heard by the two individuals related to the Pilot, we estimate that the Pilot accounted for between 17 and 26 percent of Fort Lauderdale's total dispositions during this 25-month period.

HEARING OFFICE WORKLOADS

The Pilot program in Fort Lauderdale appears to have led to high production on the part of the HOCALJ. However, without an independent assessment of the Pilot it is difficult to determine its impact on the Fort Lauderdale Hearing Office workload and its overall merit. We also determined that some representatives appeared before the

¹⁰ Hearing offices maintain a Master Docket system which contains all requests for hearings and remanded claims. Master Docket status is the initial step in the hearing process. For a discussion on the hearing office processing stages, see SSA/Office of the Inspector General report, *Management's Use of Workload Status Reports (A-12-06-26130)*, March 2007.

¹¹ The HOCALJ hears cases in both the Fort Lauderdale hearing office and the West Palm Beach remote site. He usually hears cases at the remote site 3 days per week and at the hearing office the other 2 days.

¹² When we discussed this lack of participation with other ALJs, we found that some of them did not participate in the pilot because they do not like to hear unpulled cases. In such cases, the claimant's information is not organized in the claim folder and the ALJ must take time to sift through the documentation to find the evidence.

¹³ Dispositions are defined as the number of hearing requests processed, including favorable and unfavorable decisions issued, as well as requests that are dismissed.

¹⁴ ODAR's Case Processing Management System does not uniquely identify Pilot cases.

¹⁵ The HOCALJ heard 1,744 cases during this period, and the ALJ heard another 978 cases.

Fort Lauderdale HOCALJ for the majority of their cases, which could be perceived as an unfair advantage for these representatives.

Productivity

Of the 53 HOCALJs and ALJs in our review, the Fort Lauderdale HOCALJ¹⁶ had the most dispositions (1,744) during the 25-month period. According to ODAR executives, dispositions per day per ALJ is a key criteria for analyzing hearing office productivity. The next highest number of dispositions was by an ALJ in the Orlando Hearing Office who had 1,638 dispositions. In terms of other HOCALJs, the next highest disposition total during this period was 1,335. The range for all 53 HOCALJs and ALJs was a low of 405 dispositions¹⁷ to a high of 1,744 dispositions. See Appendix C for productivity data on the five hearing offices.

Another key indicator of hearing office productivity is average processing time. The Fort Lauderdale HOCALJ had an average processing time of 450 days on his dispositions, or the 16th best rate among the HOCALJs and ALJs in our review.¹⁸ The range in average processing time for the 53 HOCALJs and ALJs was a low of 369 days to a high of 800 days.¹⁹ ODAR's national average processing time for FY 2005 was 442 days.

We were unable to determine if the Fort Lauderdale HOCALJ's productivity was directly related to the Pilot program. Only an independent assessment of the Pilot itself would provide the necessary information to make this determination.

Representative Ratios

Since so few representatives were participating in the Pilot, some representatives appeared before the HOCALJ an inordinate amount of time. We found that four representatives had more than 50 percent of their cases with the HOCALJ. The highest

¹⁶ A HOCALJ has more day-to-day responsibilities than an ALJ working. In addition to hearing cases, the HOCALJ is directly responsible for all program and administrative matters concerning SSA's hearing process in the hearing office. The HOCALJ is the first-line supervisor to ALJs, the Supervisory Staff Attorney and the Hearing Office Director.

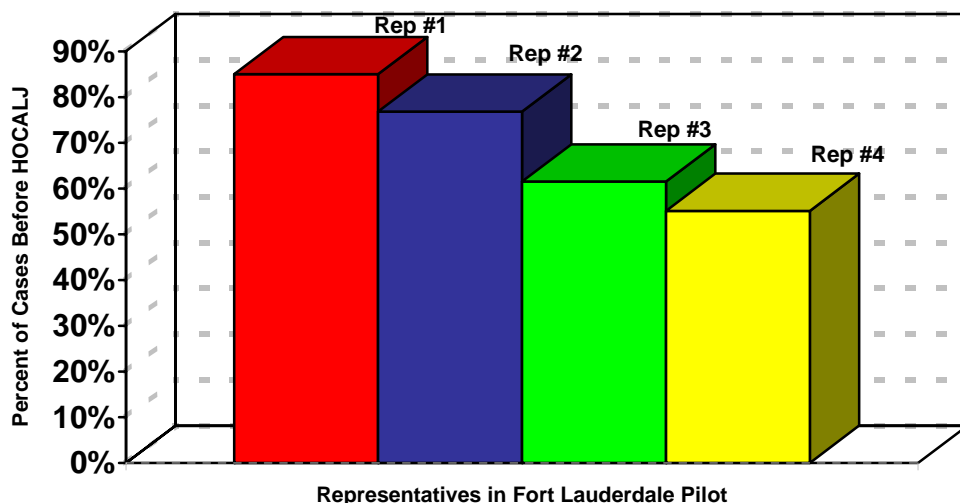
¹⁷ The median was 891 dispositions. Because some ALJs were assigned to the hearing offices for a limited time period on detail assignments, we limited our scope to include only those ALJs who were assigned to the hearing office on a full-time basis with at least 400 dispositions during the 25-month period.

¹⁸ Processing time is defined as the average elapsed time, from the hearing request date until the date of the notice of the decision, of all hearing-level cases processed.

¹⁹ The median processing time was 502 days.

rate related to Representative #1, with 85 percent (137 of 161 claims) of his cases before the HOCALJ (see the Figure below). We found no similar statistics among the other 4 HOCALJs in the same region or among the other 48 ALJs in the 5 hearing offices. If claims were assigned on a rotational basis, the percentage of any representative's caseload would be expected to be evenly distributed among the ALJs in the hearing office. In the case of Fort Lauderdale with 12 ALJs, this would mean that roughly 1 of every 12 cases, or about 8 percent, would be assigned to the HOCALJ.

Claimant Representative's Workload
Percent of Claims Heard before the HOCALJ
 (June 2004 through July 2006)



In addition, we found the HOCALJ's approval rate was higher for these four representatives than his overall approval rate (see the Table below). While the average approval rate was 60 percent among all the HOCALJ's cases, we found his approval rate averaged about 76 percent for these four representatives. While this could be caused by a number of variables, it could also lead to concern about fairness among representatives not allowed to participate in the Pilot if it appears that more frequent participation before the HOCALJ increases the chances of an allowance.

HOCALJ's Approval Rate for Four Claimant Representatives in Pilot
 (June 2004 through July 2006)

Representative	Number of Approvals by HOCALJ	Number of Disallowances by HOCALJ	HOCALJ's Approval Rate by Representative
Representative #1	95	42	69.3
Representative #2	219	62	77.9
Representative #3	79	17	82.3
Representative #4	79	30	72.5
Total	472	151	75.8%

CONCLUSION AND RECOMMENDATIONS

Over the past 6 years, the Fort Lauderdale HOCALJ has not followed ODAR's policy of assigning claims to ALJs on a rotational basis. Instead, the HOCALJ created a Pilot permitting him to hear claims from a select group of representatives. Furthermore, the Pilot has no oversight by ODAR's Headquarters or Region IV Managers and has not been independently assessed to determine its merits. Until the Pilot is independently assessed, we cannot determine its merits. It is possible that exceptions from the rotational policy should be approved under certain circumstances. However, without management buy-in and clear objectives and goals, we do have concerns about the overall perceptions of the operations in Fort Lauderdale since so few representatives participate in the Pilot. The HOCALJ is assigned most of the Pilot claims, and some representatives have a disproportionate share of hearings before the HOCALJ.

To improve management's oversight of hearing office workloads and increase the awareness of the Pilot program, we recommend SSA:

1. Provide increased oversight of the Fort Lauderdale Hearing Office and independently assess the office's Pilot operations and results to determine if it should continue.
2. Determine if any other hearing offices suspended the rotational policy without knowledge or oversight from ODAR Headquarters or Regional Office Managers and take appropriate action to officially authorize or deny any exceptions to this policy.
3. Remind HOCALJs about their duties of assigning claims on a rotational basis unless an exception from official policy is properly authorized.

AGENCY COMMENTS AND OIG RESPONSE

SSA agreed with all three recommendations. (See Appendix D for SSA's comments.)



Patrick P. O'Carroll, Jr.

Appendices

[APPENDIX A](#) – Acronyms

[APPENDIX B](#) – Scope and Methodology

[APPENDIX C](#) – Workload Statistics at the Five Hearing Offices in Region IV

[APPENDIX D](#) – Agency Comments

[APPENDIX E](#) – OIG Contacts and Staff Acknowledgments

Acronyms

ALJ	Administrative Law Judge
CALJ	Chief Administrative Law Judge
HALLEX	Hearings, Appeals and Litigation Law manual
HOCALJ	Hearing Office Chief Administrative Law Judge
HOD	Hearing Office Director
ODAR	Office of Disability Adjudication and Review
RCALJ	Regional Chief Administrative Law Judge
SSA	Social Security Administration

Scope and Methodology

To accomplish our review, we:

- Reviewed hearing office guiding principles and procedural guidance documented in Office of Disability Adjudication and Review's (ODAR) Hearings, Appeals and Litigation Law manual.
- Reviewed prior Social Security Administration Office of the Inspector General reports.
- Compiled and analyzed disposition data over a 25-month period (June 2004 through July 2006) at the Atlanta (downtown), Georgia; Fort Lauderdale, Florida; Jacksonville, Florida; Mobile, Alabama; and Orlando, Florida Hearing Offices in Region IV.¹ We reviewed relevant trends in the data, including Administrative Law Judge (ALJ) productivity and claimant representative ratios before the ALJs.
- Interviewed ODAR's Chief ALJ, ODAR's Region IV Management Team, ALJs, managers, and staff at the Atlanta (downtown), Jacksonville, Fort Lauderdale, Orlando, and Mobile Hearing Offices.

Based on prior audit work,² we determined that the disability reports provided by ODAR were sufficiently reliable to meet our objectives. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted our audit from January 2007 through May 2007 in accordance with generally accepted government auditing standards.

¹ Region IV consists of 31 hearing offices located in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

² SSA Office of the Inspector General, *Case Processing and Management System and Workload Management* (A-12-06-26012), April 2006.

Workload Statistics at the Five Hearing Offices in Region IV

We compiled and analyzed disposition data over a 25-month period (June 2004 through July 2006) at 5 hearing offices in Region IV (see the Table below).

Hearing Office Workloads at the Five Hearing Offices in our Review

Hearing Office	Total ALJs ¹	Total Dispositions	Average Dispositions ²	Median Dispositions ³	Average Processing Time – Days ⁴	Median Processing Time – Days ⁵
<i>Atlanta (downtown), Georgia</i>	11	7,167	652	725	716	720
<i>Fort Lauderdale, Florida</i>	12	10,474	873	902	485	501
<i>Jacksonville, Florida</i>	14	11,105	793	850	569	561
<i>Mobile, Alabama</i>	13	10,906	839	914	429	429
<i>Orlando, Florida</i>	17	14,445	850	958	471	517
Totals	67	54,097	807	902	518	517

Note 1: Includes Administrative Law Judges (ALJ) and Hearing Office Chief ALJs. Fifty-three of the 67 ALJs had more than 400 dispositions during the 25-month review period.

Note 2: Average dispositions represent total dispositions for the office during the 25-month period divided by the number of ALJs.

Note 3: Median dispositions is the point where half of the dispositions are below the median and half of the dispositions are above the median.

Note 4: Average processing time represents the average elapsed time, from the hearing request date until the date of the notice of the decision, of all hearing- level cases processed.

Note 5: Median processing time is the point where half of the processing time is below the median and half of the processing time is above the median.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: August 29, 2007 Refer To: SIJ-3

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

From: *for* David V. Foster *Paul A. Rust*
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Workload Activity at Five Hearing Offices in Region IV" (A-12-07-27091)--INFORMATION

We appreciate OIG's efforts in conducting this review. Our comments on the recommendations are attached.

Please let me know if we can be of further assistance. Staff inquiries may be directed to Ms. Candace Skurnik, Director, Audit Management and Liaison Staff, at 410 965-4636.

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, "WORKLOAD ACTIVITY AT FIVE HEARING OFFICES IN REGION IV" (A-12-07-27091)

Thank you for the opportunity to review and provide comments on this draft report. Overall we agree with the report's findings and recommendations. Our responses to the specific recommendations below describe actions we plan to take to address the issues identified at the Fort Lauderdale Hearing Office.

Recommendation 1

The Social Security Administration (SSA) should provide increased oversight of the Fort Lauderdale Hearing Office and independently assess the office's Pilot operations and results to determine if it should continue.

Comment

We agree. We are developing an action plan that provides for increased oversight of the Fort Lauderdale Hearing Office. We will determine whether the Pilot operation should continue and evaluate whether it should be expanded to other offices. We expect to have the plan in place by September 30, 2007, with full implementation no later than March 31, 2008.

Recommendation 2

SSA should determine if any other hearing office suspended the rotational policy without knowledge or oversight from Office of Disability Adjudication and Review Headquarters or Regional Office Managers and take appropriate action to officially authorize or deny any exceptions to this policy.

Comment

We agree. This recommendation will be addressed as part of the action plan referenced in recommendation number 1.

Recommendation 3

SSA should remind Hearing Office Chief Administrative Law Judges (HOCALJs) about their duties of assigning claims on a rotational basis unless an exception from official policy is properly authorized.

Comment

We agree. We will remind HOCALJs about assigning claims on a rotational basis unless a policy exception is authorized. This recommendation also will be addressed as part of the action plan referenced in recommendation number 1; however, we anticipate that an appropriate reminder to the HOCALJs will occur sooner than the March 31, 2008 target date for full implementation of the action plan.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Walter Bayer, Director, Philadelphia Audit Division, (215) 597-4080

Michael Maloney, Audit Manager, Falls Church Office, (703) 578-8844

Acknowledgments

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