

U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Social Security

Statement for the Record

Social Security Administration's Management of the Office of Hearings and Appeals

The Honorable James G. Huse, Jr.
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Good Morning, Mr. Chairman, Mr. Matsui, and members of the Subcommittee on Social Security. Recent newspaper accounts and concerns from Members of Congress have placed the Social Security Administration's (SSA) Office of Hearings and Appeals (OHA) under public scrutiny. My office has been asked to conduct an independent and objective investigation of the Milwaukee Hearings Office (HO) and the OHA Chicago Regional Office (RO) because of complaints that the Agency refused to release a management report criticizing the Milwaukee HO. There are also allegations that SSA supervisors told contract workers in its Chicago RO to throw away documents from the files of disabled people applying for benefits from the Government.

My office takes these allegations very seriously, and we are looking into them. The charter of SSA's Office of the Inspector General (OIG) is to identify and prevent fraud, waste, and abuse in SSA-administered programs. The issues raised with regard to these offices, as well as their implications for OHA on the whole, are of serious and vital concern to my office.

At the outset, I would like to assure this Subcommittee, Congress, and the American people, that most SSA offices run effectively and efficiently. Nationally, Social Security continues to be one of the best-run agencies in the Federal Government, as witnessed by the July 14 announcement from the Office of Management and Budget (OMB) that SSA is making progress in all five management categories on the President's Management Agenda (PMA) scorecard. SSA also holds the distinction of being the only Federal agency to receive a Certificate of Excellence in Accountability Reporting from the Association of Government Accountants every year since the award program began.

However, the fact remains that some SSA offices have had persistent management problems which have a negative impact on those who seek their services. Despite significant strides, the Agency knows it must do more.

As you know, Mr. Chairman, we have provided this Subcommittee with audit work that contains recommendations made over the last 5 years to improve OHA's operations, and we have briefed the Subcommittee on the recommendations SSA has implemented. We have also looked into every allegation noted in the recent news articles. Let me summarize what we have found with regard to these two offices, and with regard to management of OHA.

The Chicago and Milwaukee Offices

Our Office of Investigations (OI) has conducted investigations of both offices, and based on these investigations, our Office of Audit (OA) has initiated a review regarding these offices. SSA had notified our office about both situations upon discovering the problems. OI has not found evidence of criminal conduct in either SSA's Milwaukee OHA HO or its Chicago RO. We have found instances of mismanagement and poor performance. These findings require SSA to take serious and direct action.

Let's look first at the Chicago Regional Office. We began by initiating an investigation, which we have completed, upon receipt of a letter from the Wisconsin Congressional Delegation. The Delegation requested that we investigate the activities of a contract "File Assembly Unit" within the Chicago RO, which reportedly discarded pertinent information from the disability claims folders of applicants for both SSI and Title II disability during the file assembly process.

With regard to the contractors, our investigation has revealed that:

- SSA chose the contractors and performed security checks.
- Under certain circumstances, SSA policy allows contractors to take home claimant files, which may contain medical and other personal information. There were 14 contracts in the Chicago Region, 10 of which allowed vendors to take files offsite. The 2 contracts we reviewed required contractors to perform work onsite.
- The contracts required that documents not be destroyed by the contractor, not even duplicate documents.
- According to OHA officials, the unit was assigned 1,254 cases for assembly by the contractors. Some of the 1,254 claimants have been notified that portions of their claim files may have been discarded. OHA is still reviewing files and is developing a policy and procedure which will allow claimants to review their files for completeness and add necessary evidence, and will allow denied claimants another review and appeal.
- There were 198 claims files of residents of Wisconsin included in the 1,254 claims files sent to the "File Assembly Unit." Discarded original documents of claims files of 86 Wisconsin residents were discovered in the unit's recycle bins.
- Trash cans were overflowing with discarded documents prior to the arrival of the recycling bins. The trash cans were emptied daily, and the recycling bins were emptied once. OHA does not know whether discarded documents were thrown out or shredded. One contract employee admitted that some documents containing sensitive information were put into the normal trash.
- Of the 1,254 cases involved, OHA has made a decision on 176. For those 176 that have been decided, 129 were favorable to the claimant and benefits were awarded, 17 cases resulted in an unfavorable decision to the claimant, 29 cases were dismissed either because claimants withdrew or abandoned their claim. An additional case was dismissed because the claimant is now deceased. The remaining 1,078 cases are pending decisions by OHA.

With regard to OHA personnel, our investigation of the Chicago Region has found evidence of mismanagement and poor performance. One problem area was the security of sensitive

information. Contractors assembled folders out of sight of the reviewer/trainer. The project officer took no action to address the initial report that contractors were throwing out original documents.

The process used in the Chicago RO was based on a pilot program that had used retired OHA personnel, who knew how to assemble the folders, but only one such person was used. Not enough OHA personnel were assigned to train, review, or observe the other contractor workers. Management did not pay enough attention to the process:

- A manual for assembling files according to SSA's Program Operations Manual System and regulatory requirements was written but not used.
- Trainers and reviewers gave conflicting instructions.
- Not enough reviewers were assigned to observe the contractors and review their work in a timely manner.

Building on our investigation, we have initiated an audit of the Chicago office. Our specific concerns are:

- The disposition of claimant medical records at the Chicago RO.
- SSA policy concerning security checks of contractors.
- SSA policy concerning contractors and/or SSA employees taking claimant files home.

We expect to report the results of this audit later this year. I will keep this Subcommittee apprised of this audit when it has been completed.

I would like to look next at the Milwaukee Hearings Office. As a result of an OHA internal review of the Milwaukee HO that the office of the Regional Chief Judge conducted in February, our Chicago office received two allegations. We investigated these allegations, and found no evidence of criminal activity. However, that investigation identified significant management concerns. As a result of our investigation into the actions taken to address the findings of SSA's own OHA internal review, our OA has initiated a separate audit report of the Milwaukee office. The most serious concerns our review will address include:

- The discovery of over 700 pieces of unopened mail.
- 1,200 cases that were not recorded in the Hearing Office Tracking System (HOTS).
- Significant processing delays for disability claims.

We expect to report the results of this audit later this year, and we will report to this Subcommittee on the results.

Prior Reviews Concerning OHA Management

Prior OIG audits have revealed some problematic conditions regarding OHA management. Some of our prior work has focused on issues unique to specific OHA offices, while others looked at programmatic issues. Although most SSA offices function effectively, we noted some areas where improved oversight and management are required. This history of audit work yields invaluable insights to OHA's operations.

For instance, we conducted one review of OHA's allegation management process. In this review, we looked at the policies and procedures for addressing allegations of mismanagement we referred to OHA for resolution, and identified shortcomings in their ability to manage allegations properly. Not only were there instances where there was no record of referrals, there were significant time delays in closing out the referrals that were resolved. For example, OHA had no record of 37.5 percent of these referrals and it took an average of 331 days to process the 29 allegations that had been closed.

As a result of Congressional inquiries, we also reviewed OHA's Huntington, WV and Washington, DC offices to address concerns about their operations and productivity. At the Huntington facility, adequate safeguards were not taken during the destruction of claimant files, and some files were placed in unsecured trash bins outside the office building. Productivity statistics for the Washington office indicate significant delays in processing times—an indication of potential performance problems.

On a broader perspective, we looked at a number of issues related to OHA performance. We identified opportunities for SSA to improve its case management process to ensure that file data is consistent with the decisions issued by the HOs. We also identified a need for OHA to do a better job of screening individuals who are used as interpreters and claimant representatives. Specifically, prior audit work revealed instances where HOs did not review the qualifications or monitor the performance of individuals hired for interpreter services, and did not ensure administering of oaths obligating interpreters to translate the hearing accurately under penalty of perjury. More importantly, not all OHA offices receive and/or review lists that contain information on claimant representatives who have been disqualified or suspended. The failure to manage both of these functions properly renders SSA susceptible to fraud.

Finally, other prior audit work on OHA has focused on how the Agency measures its Hearings and Appeals performance. Although these reports concluded that SSA was in compliance with Government Performance and Results Act reporting requirements, they identified opportunities for SSA to improve the reliability of key OHA-related performance measures.

In general, SSA agreed with the majority of our recommendations and has taken steps to implement some of them. Concerning allegation management issues, SSA staff were receptive to our findings and suggestions for improvement, and had already begun to take corrective actions to improve OHA's review of allegations of mismanagement. Additionally, SSA issued a memorandum requiring all OHA field offices to confirm that a proper records disposal process was in place.

Conclusion

Mr. Chairman, any allegations of fraud, waste, and abuse in SSA-administered programs are of serious and vital concern to my office. I thank you for your continuing commitment to these critical issues. I would be happy to answer any questions members of the Subcommittee might have.