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Subcommittee on Oversight of Government Management,
the Federal Workforce, and the District of Columbia



Statement for the Record

Hearing on Improving Social Security Disability Insurance Claim Processing in Ohio

The Honorable Patrick P. O'Carroll, Jr.

Inspector General, Social Security Administration

November 15, 2010

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Inspector General, Social Security Administration**

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Government Management, the Federal Workforce, and the District of Columbia
of the Senate Committee on Homeland Security and Governmental Affairs

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Good morning, Mr. Chairman and Mr. Voinovich. It's a pleasure to appear before you, and I thank you for the invitation to be here today. I've appeared before Congress several times to discuss the Social Security Administration's (SSA) disability claims backlog and the Agency's efforts to reduce that backlog so applicants eligible for benefits receive them as soon as possible. Today, we are again looking at SSA's backlog in disability claims, focusing on efforts to improve disability claim processing here in Ohio.

SSA is responsible for the nation's two primary Federal disability programs: Disability Insurance (DI) and Supplemental Security Income (SSI). In September alone, SSA provided nearly \$13 billion in DI and SSI payments to nearly 16 million citizens across the country. According to the most recent SSA data, in December 2009 in Ohio, 342,000 people received DI benefits, and 274,000 people received SSI, totaling more than \$473 million in benefits paid that month in the State.

As the economy has struggled and baby boomers reach their most disability-prone years, however, more Americans have turned to SSA for financial assistance. The Agency received more than 3.2 million initial applications for DI and SSI in Fiscal Year (FY) 2010, a 7 percent increase over FY 2009. These numbers have created workloads for SSA that have tested resources and caused delays and backlogs, and SSA expects the trend of increasing disability workloads to continue.

At the end of FY 2010, SSA had a backlog of some 842,000 initial disability claims, and 705,000 claimants whose applications were denied were awaiting a hearing on their appeal. These numbers are troubling to us; they can be tragic to those who will ultimately receive benefits and are waiting on these funds to pay their rent, heat, or grocery bills and meet other critical needs. The average disability claimant will wait 111 days for an initial decision on his or her claim; the average disability appellant will wait 426 days for his or her case to be heard and decided.

Ohio currently has a backlog of nearly 31,000 initial disability claims. An Ohioan who applies for disability benefits will wait on average 119 days for an initial decision on his or her claim. However, hearing offices in Ohio currently take 479 days on average to issue decisions on hearings. For example, in Akron, Ohio, the average disability appellant will wait 334 days for his or her case to be decided. In Columbus, Ohio, the wait for an appellate decision is 557 days. These numbers, across the country and here in Ohio, are unacceptable.

But while SSA has attempted to reduce the disability backlogs, the current economic climate has created budget-balancing challenges for many States, and as a result, some states are furloughing State Disability Determination Services (DDS) employees. Federal regulations discourage furloughs of DDS personnel, but this has not stopped furloughs from occurring. To date, 16 States, including Ohio, have furloughed at least some of their DDS employees.

In Ohio, from July 1, 2009 to June 30, 2011, there will be 20 furlough days for DDS employees. According to SSA's Office of Operations, as of September 30, nearly 10,000 disability cases in Ohio

have been delayed because of furloughs, slowing the delivery of \$2.3 million in benefits intended for Ohioans. Only California—where furloughs have delayed nearly \$22 million in benefits—has been hit harder by DDS furloughs than Ohio.

To date, State furloughs have adversely affected more than 103,000 households across the nation; furloughs have delayed more than \$29 million in disability benefit payments to America's most vulnerable population.

The furloughs continue to be troublesome, because State budgets realize no savings whatsoever from furloughing DDS employees; in fact, they lose money. The Federal Government provides 100 percent of the funding required by State DDSs to process DI and SSI administrative funding. When States furlough DDS employees, it forces SSA to redistribute these cases, along with the administrative funding, to other States or Federal case processing units that have the capacity to process additional cases. To date, furloughs have forced SSA to transfer more than 116,000 cases and redistribute more than \$56 million in administrative funding to States choosing not to restrict DDS staffing.

SSA Commissioner Michael Astrue has made significant efforts to limit the effect of furloughs. He contacted all of the State Governors and many State legislators, while Vice President Biden wrote to the National Governors' Association, urging DDS furlough exemptions. In July, the Commissioner and SSA submitted legislation to Congress that would prohibit States from implementing DDS furloughs. Because of these and other efforts, three States have exempted their DDSs from employee furloughs. Ohio has not.

The *American Recovery and Reinvestment Act of 2009* (ARRA) was signed into law in February 2009, providing SSA with \$500 million to process increasing disability and retirement workloads. In FY 2009, SSA hired an additional 2,415 employees in the Office of Operations, the Office of Disability Adjudication and Review (ODAR), and DDSs to process those workloads. In an August 2010 report, we determined that SSA timely reported the new staffing information to the Office of Management and Budget and Recovery.gov.

In the Chicago Region, which includes Ohio, for example, SSA hired 191 new Operations employees, 66 new ODAR employees, and 41 new DDS employees with ARRA funds in FY 2009. Also, SSA opened two new hearing offices in Ohio (Akron and Toledo) in FY 2010. While SSA should be commended for its efforts to minimize the effect of State furloughs and its other hiring and staffing initiatives, it's indisputable that State actions have resulted in delays and kept benefits out of the hands of those in need.

SSA has also created a multi-year plan to reduce the initial claims backlog. According to SSA, the key components of this plan are:

- increased adjudicatory capacity in the DDSs and Federal processing components;
- improved efficiency through automation;
- expedited IT investments to optimize systems performance;
- expanded use of screening tools to assist in identifying likely allowances; and
- refined policies and business processes to expedite case processing.

There are other SSA initiatives implemented to improve the disability application process—such as Compassionate Allowances and Quick Disability Determinations—that we in OIG have examined and agree can help the Agency reduce the initial claims backlog.

With respect to the disability hearings backlog, the OIG has done, and continues to do, significant and

wide-ranging work to assist SSA in reducing this backlog and seeing that claimants receive prompt hearings on denied claims.

In June 2009, Senator Voinovich requested that we review hearing offices whose daily disposition rates fell below the national average. He asked that we determine why the administrative law judges (ALJs) in these hearing offices had productivity rates that lagged behind other offices nationwide, and identify what steps might be taken to remedy the solution.

To address the request, we conducted interviews with staff members at hearing offices in nine of SSA's 10 regions. We selected these hearing offices because they had disposition rates per day per ALJ below the national average of 2.31 for FY 2009 (through June). The Columbus, Ohio, hearing office, with an average disposition per day per ALJ of 1.47 at the time, was included in the review.

Our review, released in January, identified various factors that affected hearing office productivity. Specifically, we found ALJs had control over certain factors that affected hearing office productivity—motivation and work ethic, case review time, and hearings management. Further, we identified factors related to support staff that can also affect hearing office productivity—staff quantity, quality, and composition.

Through hiring, SSA has taken steps to address some of the support staff factors we identified. We found SSA is striving to achieve a national average ratio of 4.5 support staff to every ALJ. At the end of FY 2008, six of the nine offices in our review were below the desired staffing level; by the end of FY 2009, only two of the nine offices in our review remained below the desired level.

We also followed up on the performance of 14 ALJs identified in a prior review as lower-producers. We found the performance of most of these ALJs had either minimally improved or not improved at all. In fact, the FY 2009 average dispositions per day for all 14 ALJs were below the national average of 2.31 dispositions per day.

We also found that the Hearing Office Chief ALJs, who were responsible for managing ALJ performance, had taken actions to address individual ALJ factors that affect hearing office performance. These actions primarily included mentoring and counseling, rather than disciplinary actions.

In another report we released in August, we sought to identify the impairments of initial disability cases that ALJs most frequently allowed, and evaluate the characteristics of these cases.

We identified the four impairments that were most often denied by DDSs in Calendar Years 2004 through 2006, appealed to the hearing level, and subsequently allowed. These impairments were Disorders of Back; Osteoarthritis and Allied Disorders; Diabetes Mellitus; and Disorders of Muscle, Ligament, and Fascia.

Our analysis of cases with these four impairments disclosed:

- Claimants allowed at both the DDS and hearing levels were more likely to be 50 or older.
- More than 80 percent of claimants allowed at the hearing level were previously denied because the DDS determined the claimants had the ability to work.
- Claimant representation was more prevalent in cases allowed at the hearing level than in cases decided at the DDS level.
- Cases were allowed at the hearing level based on a different impairment than that on which the DDS made its determination.

- Six states—Alabama, Georgia, Illinois, North Carolina, South Carolina, and Tennessee—had DDS denial rates and hearing-level allowance rates above the national averages.
- ODAR regions, hearing offices, and ALJs had wide variations in allowance rates.

We recommended, and SSA agreed to:

1. Collect information related to claimant representation at the DDS level to determine whether representation results in more allowances at the DDS level.
2. Consider conducting a targeted review of disability determinations made in the six states we identified as having higher than average DDS denial rates and hearing level allowance rates for the four impairments we analyzed.
3. Consider analyzing variances between the hearing offices and ALJs with high and low allowance rates for the four impairments we analyzed to determine whether factors are present that support the variances.

In May 2007, SSA presented to Congress and began implementing its *Plan to Eliminate the Hearings Backlog and Prevent its Recurrence*. SSA plans to reduce the number of pending cases to a desired level of 466,000 cases and reduce the average processing time to 270 days by FY 2013. According to SSA, a pending case level of 466,000 cases would be the ideal number of pending cases based on the expected number of administrative law judges working in the Agency.

In July, we released a report in which we sought to determine whether SSA's plans would enable the Agency to achieve its goal of eliminating the pending hearings backlog by 2013. We consulted with ODAR management to obtain updated information on the status of the pending hearings backlog; and we examined ODAR's assumptions related to hearing workloads, hiring, productivity, and other factors associated with reducing the pending hearings backlog through 2013.

We believe SSA will be able to achieve its FY 2013 pending hearings backlog goal if the Agency has reliably projected hearing level receipts, ALJ availability levels, ALJ productivity levels, and senior attorney adjudicator decisions through 2013. However, the Agency has varying control over these factors; a small variance in these projections could cause SSA to exceed the targeted number of cases in its 2013 pending hearings backlog.

We estimate that SSA will have approximately 405,000 pending hearing cases by the end of 2013, lower than the stated goal of 466,000 cases. However, a small change in any one of the underlying assumptions may cause SSA to miss its 2013 pending hearings backlog goal. For this reason, SSA must continue to assess these various factors, as well as make periodic adjustments, to remain on track to reduce the pending hearings backlog.

Finally, I must point out that integrity continues to be a primary focus for the OIG. We continue to pursue the establishment of a self-funding program integrity fund for activities such as continuing disability reviews (CDRs) and the OIG's Cooperative Disability Investigations program, or CDI. The proposal would provide for indefinite appropriations to make available to SSA 25 percent, and to OIG 2.5 percent, of actual overpayments collected based on detection of erroneous payments. It would also establish a revolving fund that would be financed from the projected lifetime savings of SSA's stewardship/program activities.

With the creation of an integrity fund, SSA could utilize up to 50 percent of the estimated future lifetime program savings from such activities as CDRs, CDI, organizational representative payee oversight, and similar activities to fund initiatives that would yield at least a 150 percent return on investment within 10 years.

Our continuing support for increasing the number of CDRs has never wavered. As important as it is to ensure that individuals are eligible for benefits at the time they first apply, SSA must also take steps to ensure that they remain eligible as time goes by. The number of full medical CDRs SSA conducted in recent years has significantly decreased. In particular, the number decreased by approximately 65 percent between FYs 2004 and 2008. According to SSA, resource limitations and increases in its core workloads prevented the Agency from conducting full medical CDRs when they became due. As a result, SSA estimates that a backlog of over 1.5 million full medical CDRs existed at the end of FY 2010.

In our March 2010 report on full medical CDRs, we recommend that SSA continue to work with Congress to secure the funds necessary to eliminate the existing full medical CDR backlog, and to conduct the CDRs that become due each year. To the extent the resources are not available to conduct the CDRs that become due each year, SSA should report the reasons and the associated impact on Federal benefit payments in its annual CDR Report to Congress.

The CDI program is another critical piece of our integrity formula. The CDI program was established in FY 1998 as a joint effort by SSA and the OIG, working with State DDS and State or local law enforcement agencies, to pool resources and expertise for preventing fraud in SSA's disability programs. In 1998, CDI units became operational in five states. The program currently consists of 22 units in 20 states, with the most recent Unit opening in Kansas City, Missouri in September 2010. Since the CDI program was established, through September 2010, its efforts nationwide have resulted in \$1.6 billion in projected savings to SSA's disability programs; and \$967 million in projected savings to non-SSA programs.

The Cleveland CDI Unit, like the other 21 CDI units across the country, is continually saving money and ensuring the integrity of SSA's disability programs. Since the inception of the Cleveland CDI Unit in September 2002 through September 2010, the unit opened 2,535 cases, closed 2,377 cases and confirmed about 1,800 cases of fraud or similar fault. This Unit's work has resulted in \$124.4 million in projected SSA savings, and \$68.9 million in projected non-SSA savings.

As more individuals apply for benefits, allegations to these 22 CDI units across the country will increase. The OIG and SSA are committed to expanding the CDI program, as there are plans to open four new units in FY 2011. These units play a key role in ensuring that, while reducing the backlog of disability claims, SSA and the DDSs have an avenue available to them to further explore claims that may be suspicious or lack sufficient information to make a determination. Thus, the CDI program helps maintain the level of accuracy and integrity in these programs that the American public deserves.

In conclusion, my office is dedicated to working with Congress and SSA to reduce the backlog of disability claims, across the country and here in Ohio, and to ensuring that this takes place in an environment in which integrity, efficiency, and transparency play equal roles. The OIG has done, and continues to do, work in all areas of the disability claims process, from initial claim through final decision, to provide useful information to Agency decision-makers and this Subcommittee. SSA's efforts to date are commendable, and we look forward to continuing to assist in this critical undertaking.

I thank you again for the invitation to be here with you today, and I'd be happy to answer any questions.