
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**THE ROLE OF NATIONAL HEARING CENTERS
IN REDUCING THE HEARINGS BACKLOG**

April 2012

A-12-11-11147

AUDIT REPORT



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SOCIAL SECURITY

MEMORANDUM

Date: April 3, 2012

Refer To:

To: The Commissioner

From: Inspector General

Subject: The Role of National Hearing Centers in Reducing the Hearings Backlog
(A-12-11-11147)

OBJECTIVE

The objective of our review was to assess the role of the National Hearing Centers (NHC) in reducing the hearings backlog.

BACKGROUND

The NHCs are part of the Social Security Administration's (SSA) strategy to address the pending hearings backlog and reduce case processing time by increasing adjudicatory capacity and efficiency with a focus on an electronic hearings process. Between October 2007 and July 2010, the Office of Disability Adjudication and Review (ODAR) opened five NHCs (see Table 1). ODAR based the NHCs' locations, in part, on the availability of space nationwide, which resulted in ODAR's ability to get those facilities operational in a shorter timeframe. In addition, ODAR decided that having the NHCs in different time zones would ensure more effective scheduling. As of the date of this review, ODAR had no plans to open additional NHCs.

Table 1: NHC Opening Dates

Location	Operations Started
Falls Church, Virginia	October 2007
Albuquerque, New Mexico	March 2009
Chicago, Illinois	June 2009
Baltimore, Maryland	July 2009
St. Louis, Missouri	July 2010

Heavily backlogged hearing offices across the country transfer cases to the NHCs. Administrative law judges (ALJ) at the NHCs use video technology to conduct all their hearings. ALJs at the NHCs conduct video hearings with claimants in hearing offices and other sites nationwide.¹ Video terminals are required at two sites: the claimant's location and the NHC.² A claimant has the option of declining a video hearing and having his or her case returned to the originating hearing office for processing.

To meet the objective of our audit, we interviewed management and staff at ODAR Headquarters and all five NHCs to discuss how the NHCs were being managed and used. We also interviewed managers at the five hearing offices that transferred large volumes of cases to the NHCs to learn about the benefits as well as any challenges to the process. To assess the NHC's role in reducing the pending hearings backlog, we reviewed closed cases from Fiscal Years (FY) 2009 through 2011 to identify trends in ALJ disposition rates,³ pending backlogs, and average processing times. See Appendix B for a further discussion of our scope and methodology.

RESULTS OF REVIEW

During FYs 2010 and 2011, ODAR's 5 NHCs processed more than 56,000 hearings to assist backlogged hearing offices with older cases. The Chicago Region transferred the highest number of cases during this period, about 50 percent of all cases the NHCs received. These transfers allowed the Chicago Region to address case backlogs while new hearing offices were being constructed to permanently address workload needs. We found the ALJs working in the NHCs had a higher than average disposition rate that may have related to such factors as (1) a higher decision writer-to-ALJ ratio, (2) how attorneys are supervised, (3) the lack of travel to remote sites, (4) useful pre-hearing briefs, and (5) the processing of NHC remands at the hearing office level. However, the NHCs identified a number of challenges that may limit the effectiveness of the NHC model, including (1) availability of video capacity, (2) difficulties scheduling experts, and (3) claimants declining video hearings. The assisted hearing offices we contacted stated case transfers to the NHCs led to fewer pending cases and improved processing times. The hearing offices also had a few concerns, including their processing of NHC remands as well as the extra work related to declined video hearings.

¹ In conjunction with the NHC initiative, ODAR established the Video Teleconferencing (VTC) initiative. The goals of this initiative were to boost claimant satisfaction, provide more timely hearings, save ALJ travel time, process cases faster, and realize a greater ratio of hearings scheduled to hearings held. For more information on ODAR's VTC initiative, see SSA, Office of the Inspector General, *Use of Video Hearings to Reduce the Hearing Case Backlog* (A-05-08-18070), April 2011.

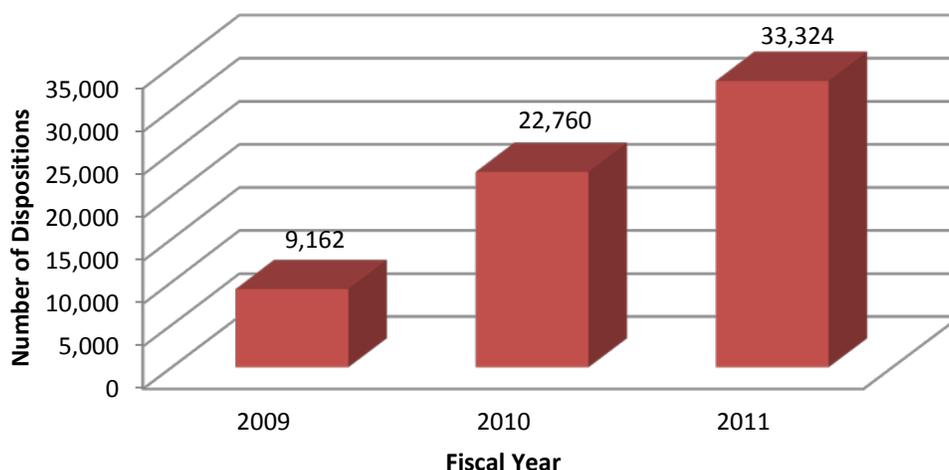
² Other parties, such as medical and vocational experts, may participate by video as well.

³ ALJ disposition rates are the number of ALJ dispositions per day per available ALJ.

NHC ASSISTANCE TO HEARING OFFICES

In FYs 2010 and 2011, the NHCs processed approximately 56,000 hearing cases (see Figure 1). During this same period, SSA's 10 regions transferred approximately 82,000 cases to the NHCs.⁴

**Figure 1: NHC Dispositions
(FYs 2009 Through 2011)**



The NHCs' function is to alleviate nation-wide backlogs by processing workloads from heavily backlogged hearing offices. ODAR's Office of the Chief Administrative Law Judge (OCALJ) oversees the workloads at the five NHCs. By examining hearing office backlogs and determining the amount of video capacity, OCALJ identifies the hearing offices that are eligible to transfer cases to the NHCs. OCALJ works with the regions and hearing offices in managing the case transfers to the NHCs.

Initially, hearing offices transferred their oldest cases to the NHCs.⁵ However, according to NHC management, hearing offices are now transferring newer cases to the NHCs. As the ages of the cases have continued to decrease nationwide, the ages of the cases transferred to the NHCs have continued to decrease. Besides transferring a large number of cases to the NHCs, ODAR has addressed backlogs with new hearing offices. During FYs 2010 and 2011, ODAR added or expanded 28 hearing offices,

⁴ The remaining 26,000 cases are part of the NHC's pending workload, which are in various stages of processing. See Appendix C for a further discussion of regional dispositions, pending cases, and average processing times.

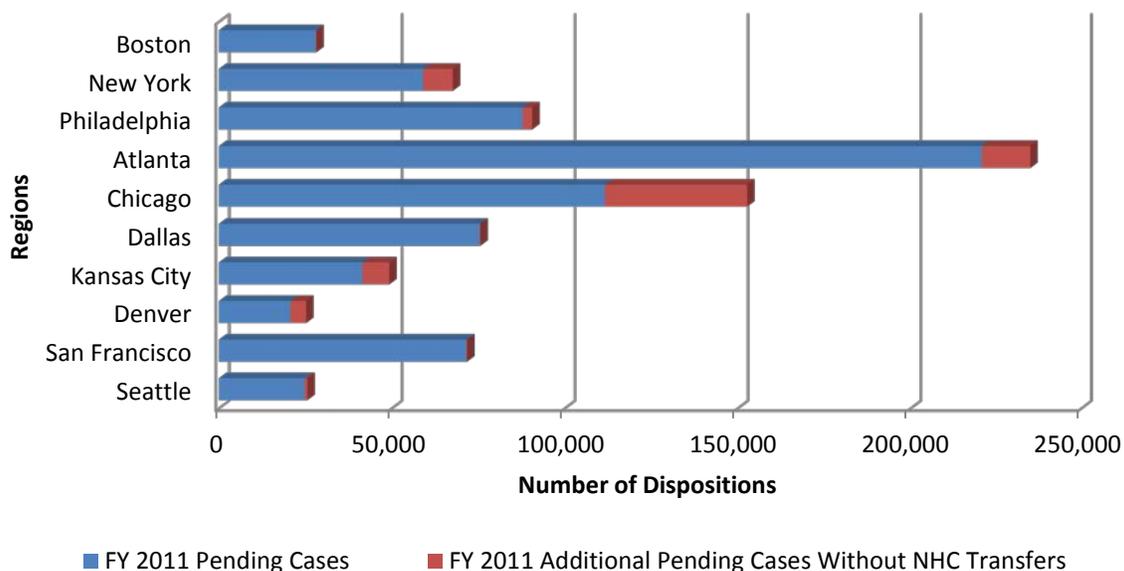
⁵ Besides the NHC initiative, ODAR's *Aged Claim* initiative focused hearing office efforts on eliminating the oldest cases from the backlog. ODAR started the initiative in FY 2007 by targeting cases that were over 1,000 days old. In FY 2012, hearing offices are targeting cases that will be 725 days old or older. ODAR started FY 2012 with 113,593 cases in this age category. See SSA OIG, *Aged Claims at the Hearing Level* (A-12-18071), September 2009.

satellite offices, and National Case Assistance Centers (NCAC)⁶ affecting all 10 regions (see Appendix D). OCALJ directed NHC resources to address shortfalls in capacity while ODAR was adding new hearing offices and related capacity to the regions.

While every region transferred cases to the NHCs, the Chicago Region⁷ transferred about 41,000 cases—approximately 50 percent of the total transfers to the NHCs—during FYs 2010 and 2011. The Chicago Region would have had over 150,000 pending cases at the end of FY 2011 without the NHC transfers (see Figure 2). The Atlanta Region, the largest region in the nation, would have had over 14,000 more pending cases without the NHC transfers.

Figure 2: Regional Pending Cases with Case Transfers to NHCs at the End of FY 2011

(Includes all Case Transfers in FYs 2010 and 2011)



In the Chicago Region, the NHCs have focused their efforts on assisting backlogged offices in Ohio and Michigan. Hearing offices in Ohio and Michigan transferred over 27,000 cases to the NHCs, approximately 33 percent of total transfers in FYs 2010 and 2011 (see Table 2). Altogether, 89 hearing offices transferred cases to the NHCs over the last 2 years from SSA's 10 regions.

⁶ NCACs provide backlog support to multiple components in ODAR as needed, including assisting hearing offices and NHCs with decision writing and case pulling.

⁷ The Chicago Region covers Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. It is the second largest region in the country in terms of population.

**Table 2: Case Transfers from Ohio and Michigan
Hearing Offices to NHCs
(Cases Transferred in FYs 2010 and 2011)**

Hearing Office Location	Number of Cases Transferred
Columbus, Ohio	5,774
Cleveland, Ohio	5,621
Flint, Michigan	3,578
Oak Park, Michigan	3,555
Dayton, Ohio	3,152
Toledo, Ohio	2,604
Detroit, Michigan	2,566
Lansing, Michigan	2,031
Cincinnati, Ohio	1,931
Akron, Ohio	1
Grand Rapids, Michigan	1
Total	27,259

In FY 2010, ODAR established six new hearing offices in the Chicago Region, including two new hearing offices in Akron and Toledo, Ohio, as well as two additional hearing offices in Livonia and Mt. Pleasant, Michigan.⁸ These new hearing offices can assist with State backlogs previously handled by the NHCs.⁹

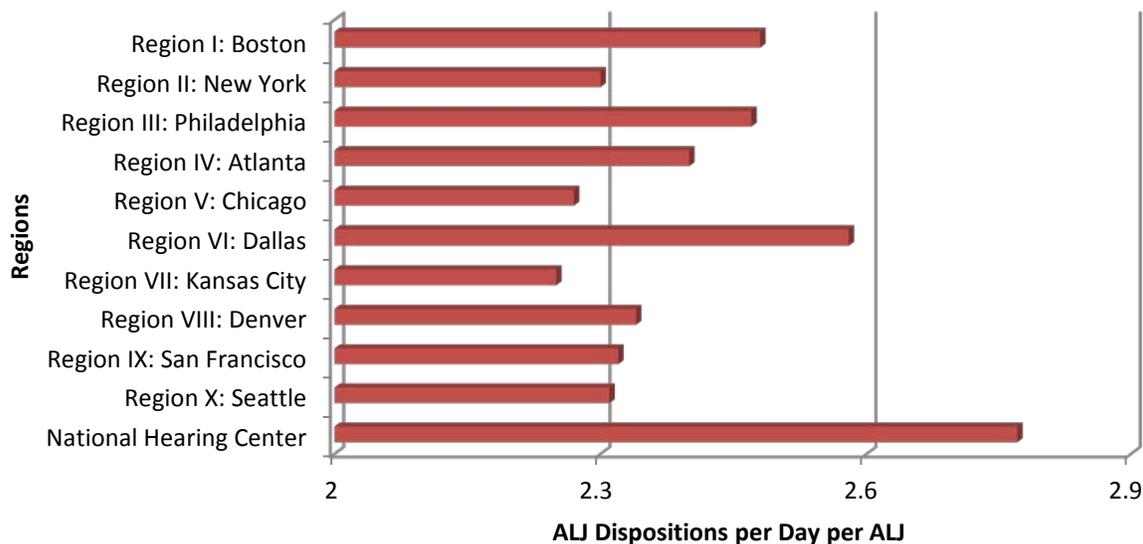
ALJ PRODUCTIVITY AT NHCs

ALJs working in the NHCs had an average disposition rate of 2.77 in FY 2011, about 15 percent higher than the average national disposition rate of 2.42 (see Figure 3). This higher disposition rate may have related to a number of factors at the NHCs, including (1) higher decision writer-to-ALJ ratios, (2) ALJ supervision of attorneys, (3) no travel to remote sites, (4) useful pre-hearing briefs, and (5) lack of remands.

⁸ See Appendix D for more information on the new hearing offices.

⁹ Hearing offices from other regions also assisted with these workloads via the service area realignment (SAR) initiative that ODAR implemented in FY 2008. ODAR implemented the SAR initiative using a two-phased strategy. The first phase included permanent interregional transfer of claims designed to decrease aged pending workloads at heavily impacted offices. Once the flow of transfer claims began, phase two involved realigning SSA field offices with high workloads to hearing offices with lower workloads.

Figure 3: FY 2011 ALJ Disposition Rate by Region



Decision Writer-to-ALJ Ratio

The higher NHC ALJ disposition rate may have been related to a number of factors, including a higher decision writer-to-ALJ ratio. As shown in Table 3, the NHC’s overall staffing ratio¹⁰ ranged from 4.00 to 5.22, which is consistent with ODAR’s goal of maintaining an overall staffing ratio of 4.5 per region.¹¹ However, the NHCs’ decision writer-to-ALJ ratio was higher than any of the regions (see Table 4). In FY 2011, the NHC average decision writer-to-ALJ ratio was 2.90, whereas only 1 of the 10 regions had an average ratio above 2.

Table 3: FY 2011 Staffing Levels at the National Hearing Centers

NHC Office	Full-Time Permanent ALJs	Decision Writer-to-ALJ Ratio	Support Staff-to-ALJ Ratio	Overall Staffing Ratio
St. Louis	16	2.63	2.06	4.69
Chicago	16	2.69	1.31	4.00
Baltimore	12	3.00	1.42	4.42
Falls Church	9	3.78	1.44	5.22
Albuquerque	5	2.00	2.20	4.20
Totals/Weighted Averages	58	2.90	1.78	4.67

¹⁰ The overall staffing ratio is calculated by adding the decision writer-to-ALJ ratio with the support staff-to-ALJ ratio.

¹¹ According to NHC managers, NHCs are held to the Commissioner’s goal of having overall staffing ratios of 4.5 staff per ALJ.

Table 4: Comparison of FY 2011 NHC Staffing Versus ODAR Regional Staffing

Region	Full-Time Permanent ALJs	Decision Writer-to-ALJ Ratio	Support Staff-to-ALJ Ratio	Overall Staffing Ratio ¹
Region I: Boston	59	1.80	2.76	4.55
Region II: New York	132	1.66	2.92	4.58
Region III: Philadelphia	156	1.61	2.88	4.49
Region IV: Atlanta	364	1.88	3.05	4.93
Region V: Chicago	239	1.60	3.07	4.66
Region VI: Dallas	157	1.97	2.97	4.93
Region VII: Kansas City	70	1.73	3.15	4.88
Region VIII: Denver	35	1.77	3.17	4.94
Region IX: San Francisco	156	1.75	3.14	4.88
Region X: Seattle	51	2.21	2.81	5.02
National Hearing Centers	58	2.90	1.78	4.67

Note 1: May not add across rows due to rounding.

The Agency's goal is to maintain a decision writer-to-ALJ staffing ratio of 1.85 decision writers per ALJ in each hearing office. Our earlier report¹² found that hearing offices with higher decision writer-to-ALJ ratios had higher productivity than hearing offices with lower ratios. However, to maintain the overall staffing ratio of 4.5, the higher decision writer-to-ALJ ratios in the NHC means that the NHCs must operate with a lower support staff ratio. The support staff-to-ALJ ratio for the NHCs averaged 1.78, while the regions averaged 2.99. In our discussions with NHC managers, we learned that this lower support staff ratio was by design.

To ensure that ALJs in the NHCs had enough cases pulled¹³ for a hearing, NHC managers transferred cases among the NHCs to balance workloads. While having the hearing offices pull cases before transferring them may have assisted the NHCs, the fact that the hearing offices were using the NHCs indicated backlogged cases were already tying up their staff.

ALJ Supervision of Attorneys

ALJs at the NHCs directly supervise attorney decision writers.¹⁴ The 12 NHC ALJs we interviewed believed this supervisory relationship had created a trust factor between the parties, thereby allowing the attorneys to develop a good understanding of their supervising ALJ's preferences. The ALJs at a typical hearing office are part of a group that uses a pool of attorneys led by a group supervisor. Hearing office attorneys are

¹² SSA OIG, *Hearing Office Performance and Staffing* (A-12-08-28088), February 2010.

¹³ "Pulling" describes the process of preparing a disability case file for a hearing. Staff organizes medical documents chronologically, numbers documents, removes duplicate documents, ensures all pertinent documents are appropriately labeled, and prepares an exhibit list of pertinent documents.

¹⁴ See Appendix E for organization charts for the NHC and a hearing office.

rotated among the ALJs in the group. However, since the ALJs at the hearing offices are not managers, the NHC model of direct reporting cannot be replicated in the hearing offices.¹⁵

ALJ Travel to Remote Sites

Unlike ALJs at hearing offices, ALJs at the NHC focus on video hearings only and do not travel to remote sites to hold hearings. When ALJs travel to remote sites, they have less time to process and hear cases. This additional time spent at the office rather than in travel status may contribute to the higher productivity of NHC ALJs.¹⁶

Pre-Hearing Briefs

Of the 12 NHC ALJs we interviewed, 10 stated pre-hearing briefs prepared by their attorneys were more useful than similar worksheets used at hearing offices. Pre-hearing briefs provide extensive information on the claimant, including education, medical condition, past relevant work, and impairments found by the disability determination services. In addition, the brief provides the attorney's recommendation on the decision.¹⁷

¹⁵ Shortly after the NHCs were established, the Association of ALJs (AALJ), a national union representing ALJs, challenged the Agency's policy of precluding NHC ALJs from the bargaining unit. In February 2010, the Federal Labor Relations Authority found that NHC ALJs in Albuquerque, New Mexico, and Falls Church, Virginia, are supervisors within the meaning of section 7103 (a)(10) of the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7103(a)(10). While the AALJ appealed this decision, it was upheld in June 2010. See *Social Security Administration, Office of Disability Adjudication and Review, Baltimore, Maryland and Association of Administrative Law Judges International Federation of Professional and Technical Engineers, AFL-CIO (SSA and AALJ)*, FLRA Case No. WA-RP-09-0057, 64 FLRA 896, Order Denying Application for Review (June 22, 2010). As a result of the FLRA decision, the NHC ALJs are precluded from the AALJ bargaining unit at the Albuquerque and Falls Church NHCs. The AALJ also challenged SSA's policy of precluding NHC ALJs from the bargaining units at the other three NHCs (Baltimore, Maryland; Chicago, Illinois, and St. Louis, Missouri). The FLRA again decided in favor of the Agency. See *SSA and AALJ*, FLRA Case No. WA-RP-11-0022, Decision and Order Granting Petition Seeking Clarification of Unit (February 29, 2012).

¹⁶ This situation may change in the future, as we note later in this report.

¹⁷ In our July 2011 report, *Senior Attorney Adjudicator Program (A-12-10-11018)*, we recommended that the Agency provide senior attorney adjudicators with additional guidance and tools, such as a modified *Attorney Adjudicator Worksheet*, to ensure senior attorney adjudicators highlight pertinent case details when a case cannot be decided as an on-the-record (OTR) decision.

Remands

According to SSA policy, Appeals Council remands,¹⁸ including those generated by the Federal courts, are assigned to the same ALJ who issued the decision or dismissal. However, at the time of our review, the NHC ALJs did not process their own remands. Instead, they were returned to the hearing office assisted by the NHC, and ALJs in that office were expected to process the remand. As a result, NHC ALJs had more time to dedicate to new cases.

On December 15, 2011, ODAR's Chief ALJ sent a memorandum to the Regional Chief ALJs announcing a modification to the NHC remand policy.¹⁹ The memorandum stated that, "Effective January 3, 2012, all hearing offices that are currently receiving assistance from the NHC, may route remands of decisions issued by an NHC ALJ to the appropriate NHC location." The hearing offices were instructed to take the following steps when they receive an electronic remand issued by an NHC ALJ.

1. Determine whether the NHC is still providing assistance to the hearing office.
2. Verify that the NHC ALJ who issued the decision is on duty at the NHC.
3. If the remand meets both requirements, transfer the remand to the NHC.

Furthermore, if the claimant declines a video hearing, the NHC will transfer the remand back to the servicing office for an in-person hearing.

NHC CHALLENGES

We interviewed NHC managers at Headquarters as well as managers, ALJs, and staff at all five NHCs to learn about the challenges NHCs face when processing case transfers. The challenges they identified included (1) availability of video capacity, (2) conflicts when scheduling experts, and (3) claimants declining video hearings.

Video Capacity

NHC managers and ALJs told us they are facing a lack of video capacity that prevents the NHCs from assisting some heavily backlogged offices. While the NHC ALJs often

¹⁸ Common reasons for remands include (1) additional claimant or witness testimony is needed; (2) the claimant did not receive a fair hearing; (3) the ALJ issued the OTR decision but testimony is necessary; (4) evidence from an expert witness is needed; (5) additional development is needed—for example, consultative examinations, hospital reports, or evidence on work activity; (6) the ALJ's decisional rationale is insufficient, and (7) the ALJ applied the wrong law. See SSA, Hearings, Appeals and Litigation Law (HALLEX) manual I-3-7-1—*General*.

¹⁹ *Remands to National Hearing Center (NHC) Administrative Law Judges (ALJ) – INFORMATION*, memorandum from Chief ALJ Debra Bice to Regional Chief ALJs, December 15, 2011.

use permanent remote sites²⁰ to hold video hearings, these sites are often used for in-person hearings, leaving less space for video hearings. Use of the permanent remote sites increased after the Agency started closing its temporary remote sites²¹ in March 2011.

The NHC managers at Headquarters said the claimant-only video (COV) model for video hearings has been successful in the Chicago Region. COVs are small hearing rooms that contain desktop video equipment and are large enough to hold the claimant, claimant representative, hearing reporter, and experts, if required. COVs are used in a number of regions.²² The Agency also established the Representative Video Project (RVP), which allows law firms to place video equipment in their own offices²³ to increase video capacity.

Scheduling Experts and Claimant Representatives

NHCs and hearing offices schedule the same experts, which leads to scheduling conflicts. Cases being heard in the NHCs and hearing offices often require the use of the same medical and vocational experts who assist the ALJ in evaluating evidence. According to NHC managers, the NHCs can use any expert from any region, but they first try to schedule the experts in the area where the claimant is located. The scheduling conflict with experts is more acute in metropolitan areas with multiple hearing offices.²⁴

NHC managers noted that scheduling claimant representatives is another challenge, especially in areas with multiple hearing offices. Claimant representatives in these areas might have many clients appearing in multiple hearing offices with multiple ALJs. Schedulers in the NHCs have tried to alleviate this problem by scheduling experts and claimant representatives months in advance.

²⁰ A permanent remote site is a space that has been assigned to or leased for ODAR by the General Services Administration (GSA) in a city within the defined service area of a hearing office. Some permanent remote sites are co-located with SSA field offices.

²¹ A temporary remote site is a location where hearings are held in space not under a GSA lease or assignment to ODAR. Typically, such sites are in spaces rented under a daily or weekly rate under local purchase authority or in spaces made available to ODAR at no charge.

²² For more discussion on the use of COVs and other video options, see SSA OIG, *Use of Video Hearings to Reduce the Hearing Case Backlog* (A-05-08-18070), April 2011. This report also noted that video equipment was largely unused in a number of hearing offices because the hearing rooms were being used for in-person hearings.

²³ SSA OIG, *Representative Video Project* (A-05-09-19101), August 2011.

²⁴ We discussed the difficulties with scheduling experts in our February 2011 report, *Office of Disability Adjudication and Review's Scheduling Procedures for Hearings* (A-12-10-20169). We are also completing another review related to vocational experts—*Availability and Use of Vocational Experts* (A-12-11-11124).

Declined Video Hearings

ODAR estimated that in FY 2011, over 1,000 NHC claims were returned to hearing offices after the claimant or the claimant representative declined the video hearing.²⁵ When a claimant or a claimant representative declines a video hearing by the NHC, the NHC sends the case back to the original hearing office for processing, which leads to extra processing times in the hearing offices. NHC managers were concerned that SSA regulations allowed claimants or their representatives to decline video hearings at any time, even on the day of the hearing. ODAR managers suspect that some claimant representatives declined video hearings after they discovered the name of the ALJ assigned to hear their case and researched the ALJ's published allowance rate.²⁶ This activity is sometimes referred to as "judge shopping."

NHC managers at Headquarters explained that ODAR was changing the hearing notices²⁷ so they will no longer include the name of the ALJ who is assigned to the case.²⁸ In addition, they are contemplating having NHC ALJs travel to hearing offices and remote sites to hold hearings. In this way, claimants will remain on their hearing dockets.

HEARING OFFICE BENEFITS AND CHALLENGES

We spoke to hearing office directors (HOD) at five hearing offices that transferred large volumes of cases to the NHCs to learn about both the benefits and challenges related to working with the NHCs.²⁹ HODs cited such benefits as fewer pending cases and improved processing times. They cited challenges including extra processing related to NHC remands and declined video hearings.

Hearing Office Benefits

All five HODs stated that the main benefit was a reduction in the number of pending cases per ALJ. In addition, two HODs stated that their hearing offices experienced

²⁵ ODAR noted that the actual number of declined video hearings in FY 2011 was higher because not all of these cases were being properly coded in CPMS.

²⁶ The DATA.gov Website provides individual ALJ disposition data and allowance rates, as well as hearing office information, such as total processing time and pending case levels.

²⁷ See HALLEX I-2-3.15—*Notice of Hearing*. The ALJ or the hearing office staff must send notice of the hearing to the claimant and representative at least 20 days before the hearing.

²⁸ This policy change could affect situations where the ALJ should withdraw from a hearing in cases where he or she may be prejudiced or partial with respect to any party or has an interest in the matter pending for decision. See 20 C.F.R. §§ 404.940 and 416.1440 *Disqualification of the Administrative Law Judge*. To the extent that such a situation exists, the new policy may lead to withdrawals on the day of the hearing. ODAR management said such ALJ withdrawals are rare.

²⁹ All 5 hearing offices transferred 1,000 or more cases to the NHCs in FY 2010. See Appendix B for more information on these hearing offices.

lower hearing office processing times. The HODs did not interact directly with the NHC staff but instead worked through their regional offices. The regional management teams instructed the HODs to transfer their oldest cases to the NHCs, thus lowering the hearing offices' average processing time and allowing these offices to focus on newer cases. The hearing offices were asked to transfer cases meeting the following criteria: (1) initial hearing; (2) electronic rather than paper folders; (3) not already assigned to an ALJ; and (4) the oldest cases in the hearing office.

Hearing Office Challenges

The HODs cited two challenges when working with the NHCs; extra processing related to NHC remands and declined video hearings.

Remanded Cases

All five HODs mentioned NHC-related remanded cases as a challenge to their offices. As noted previously, hearing office ALJs not associated with particular cases were expected to respond to remand issues related to NHC ALJs' decisions. One HOD explained that ALJs in the NHCs were unaware why their decisions were remanded, so they were missing a learning opportunity by not processing their own remands.

In our discussions with NHC ALJs, we learned that they were in favor of receiving remands, also noting that they could learn from these remanded cases. Moreover, NHC Headquarters managers agreed that having the NHC ALJs process their own remands would allow them to learn about mistakes they might have made in their initial decisions. Consistent with this interest, OCALJ implemented a small remand pilot in the last year to determine whether the NHC ALJs would benefit from processing their own remand cases. The pilot involved cases transferred from two hearing offices to two NHCs. As noted earlier, on January 3, 2012, ODAR changed the policy and started routing remands to the appropriate NHC ALJs, under certain conditions.

Declined Video Hearings

Four of the five HODs mentioned that declined video hearings create processing delays and extra work for the hearing office staff. One HOD stated that 6 to 9 months may pass before the declined case is returned to the hearing office. These returned cases needed to be reworked by a senior case technician and rescheduled for a hearing, which added time to the process. Moreover, similar to the NHC managers, the HODs believed some of this behavior related to claimants attempting to choose the ALJs who will hear their cases. As noted earlier, hearing notices and practices may change, which may reduce the number of declined video hearings.

CONCLUSION AND RECOMMENDATIONS

The NHC's flexibility has allowed ODAR to transfer older cases from some of the most heavily backlogged offices, thereby assisting those offices in reducing their pending levels and processing times. In addition, although ALJs at NHCs may have been more productive because of the NHC's structure and the underlying processes, some of these processes may create unintended consequences for the hearing offices assisted. Moreover, the NHCs face their own challenges, including lack of video capacity, scheduling difficulties, and declined video hearings. ODAR is taking steps to address a number of these challenges.

To enhance the NHC model, we recommend that SSA:

1. Monitor video capacity and, as resources permit, consider increasing the number of video locations, which may include permanent remote sites, COVs, and RVP locations.
2. Ensure steps are taken to prevent claimants from choosing the ALJ hearing their case, such as removing the ALJ's name from all hearing notices and reminding schedulers not to reveal the name of the ALJ when asked by a claimant representative.
3. Consider modifying the regulations to prevent claimants from declining video hearings close to the day of the hearing.

AGENCY COMMENTS

SSA agreed with all three recommendations (see Appendix F).



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Regional Dispositions, Pending Cases, and Average Processing Times

APPENDIX D – New Offices Opened by Region in Fiscal Years 2010 and 2011

APPENDIX E – Organization Charts - Hearing Office and National Hearing Center

APPENDIX F – Agency Comments

APPENDIX G – OIG Contacts and Staff Acknowledgments

Acronyms

AA	Attorney Advisor
AALJ	Association of Administrative Law Judges
ADP	Automated Data Processing
AO	Administrative Officer
ALJ	Administrative Law Judge
CALJ	Chief Administrative Law Judge
C.F.R.	Code of Federal Regulations
COV	Claimant-Only Video
CPMS	Case Processing and Management System
FLRA	Federal Labor Relations Authority
FY	Fiscal Year
GSA	General Services Administration
HALLEX	Hearings, Appeals and Litigation Law Manual
HOD	Hearing Office Director
NCAC	National Case Assistance Center
NHC	National Hearing Center
OCALJ	Office of the Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
OTR	On-the-Record
RVP	Representative Video Project
SAR	Service Area Realignment
SSA	Social Security Administration
U.S.C.	United States Code
VTC	Video Teleconferencing

Scope and Methodology

To accomplish our objective, we:

- Reviewed applicable laws and Social Security Administration policies and procedures, including the Office of Disability Adjudication and Review's (ODAR) Hearings, Appeals and Litigation Law Manual.
- Reviewed previous Office of the Inspector General reports.
- Examined position descriptions of managers and staff working at the National Hearing Centers (NHC) and the hearing offices to become familiar with the duties and responsibilities of each position.
- Interviewed NHC managers in ODAR Headquarters, as well as administrative law judges (ALJ), managers, and staff at all five NHC offices, to discuss how NHCs are managed and operated.
- Reviewed closed cases from ODAR's Case Processing and Management System (CPMS) from Fiscal Years (FY) 2009 through 2011 to determine the workloads of each NHC as well as the assisted hearing offices.
- Obtained NHC case transfer data from ODAR to identify which hearing offices and regions transferred cases to the NHCs in FYs 2009 through 2011.
- Analyzed CPMS *Caseload Analysis Reports* and cases transferred to NHCs to determine trends in regional performance for dispositions, average processing time, and pending case workloads.
- Interviewed hearing office directors at 5 hearing offices that transferred 1,000 or more cases to the NHCs in 2010 to learn about both the benefits and challenges related to working with the NHCs. The hearing offices were Bronx, New York; Fort Wayne, Indiana; Kansas City, Missouri; Oak Park, Michigan; and Raleigh, North Carolina.

We found that FY 2009 through 2011 CPMS data were sufficiently reliable to meet our objective. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted this performance audit from February through November 2011 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.

Regional Dispositions, Pending Cases, and Average Processing Times

From the end of Fiscal Year (FY) 2009 to the end of FY 2011, hearing dispositions increased at 9 of 10 Regions (see Table C-1). Only the Kansas City Region had fewer dispositions (-6 percent) during this period.

**Table C-1: Trend in Regional Dispositions
(2009 Versus 2011)**

Region	FY 2009 Dispositions	FY 2011 Dispositions	Percent Change in Dispositions
Region I: Boston	22,866	29,657	30%
Region II: New York	63,446	67,014	6%
Region III: Philadelphia	74,290	85,441	15%
Region IV: Atlanta	174,843	200,540	15%
Region V: Chicago	94,614	121,123	28%
Region VI: Dallas	89,065	96,339	8%
Region VII: Kansas City	31,463	29,664	-6%
Region VIII: Denver	17,674	21,065	19%
Region IX: San Francisco	65,479	85,334	30%
Region X: Seattle	17,940	24,062	34%
Totals^b	651,680	760,239	17%

Notes: a. Dispositions include cases processed by ALJs and senior attorneys.

b. Regional totals do not include workloads of National Hearing Center (NHC) located in the regions.

Even with the increased dispositions, the Social Security Administration (SSA) faced a growing backlog of pending cases in FY 2011. Overall, the hearing backlog grew by about 66,000 cases during this period, with the backlog growing to approximately 771,000 at the end of FY 2011.¹ Three regions experienced double-digit decreases in their pending workloads, with the Chicago Region experiencing the largest decrease at 11-percent (see Table C-2). Four regions had double-digit increases in their pending case workload, with the Kansas City Region experiencing the largest increase at 26 percent.

¹ SSA, *Accountability and Performance Report for FY 2011*. The backlog at the end of FY 2011 increased to about 787,000 cases based on 53 weeks, rather than the 52 weeks quoted in ODAR's official count. As a result, the backlog increased by about 82,000 in FY 2011.

**Table C-2: Trend in Regional Pending Cases
(2009 Versus 2011)**

Region	Pending Cases 2009	Pending Cases 2011	Difference in Cases	Percent Change
Region I: Boston	28,199	28,047	-152	-1%
Region II: New York	65,310	59,071	-6,239	-10%
Region III: Philadelphia	77,273	87,908	10,635	14%
Region IV: Atlanta	188,566	220,558	31,992	17%
Region V: Chicago	125,820	111,609	-14,211	-11%
Region VI: Dallas	69,971	75,414	5,443	8%
Region VII: Kansas City	33,001	41,488	8,487	26%
Region VIII: Denver	21,544	20,725	-819	-4%
Region IX: San Francisco	79,419	71,564	-7,855	-10%
Region X: Seattle	22,117	24,821	2,704	11%

Note: Regional totals (1) do not include workloads of NHCs located in the regions and (2) represent pending cases after case transfers to NHCs.

According to SSA's FY 2011 Performance and Accountability Report, the national average processing time for hearing requests decreased from 426 days in FY 2010 to 360 days in FY 2011. Average processing time in each of the 10 regions was below 400 days in FY 2011, with 9 of 10 regions showing improvement from the end of FY 2009 to the end of FY 2011 (see Table C-3). SSA's goal was to have an average processing time of 270 days per case by the end of FY 2013.²

**Table C-3: Trends in Average Processing Times
(FY 2009 Versus FY 2011)**

Region	FY 2009 Average Processing Time (days)	FY 2011 Average Processing Time (days)	Percent Change in Average Processing Time
Region I: Boston	356	368	3%
Region II: New York	465	362	-22%
Region III: Philadelphia	402	352	-12%
Region IV: Atlanta	528	351	-34%
Region V: Chicago	615	389	-37%
Region VI: Dallas	398	295	-26%
Region VII: Kansas City	531	384	-28%
Region VIII: Denver	447	395	-12%
Region IX: San Francisco	472	366	-22%
Region X: Seattle	531	380	-28%

Note: Regional figures represent processing times after transfers to NHCs

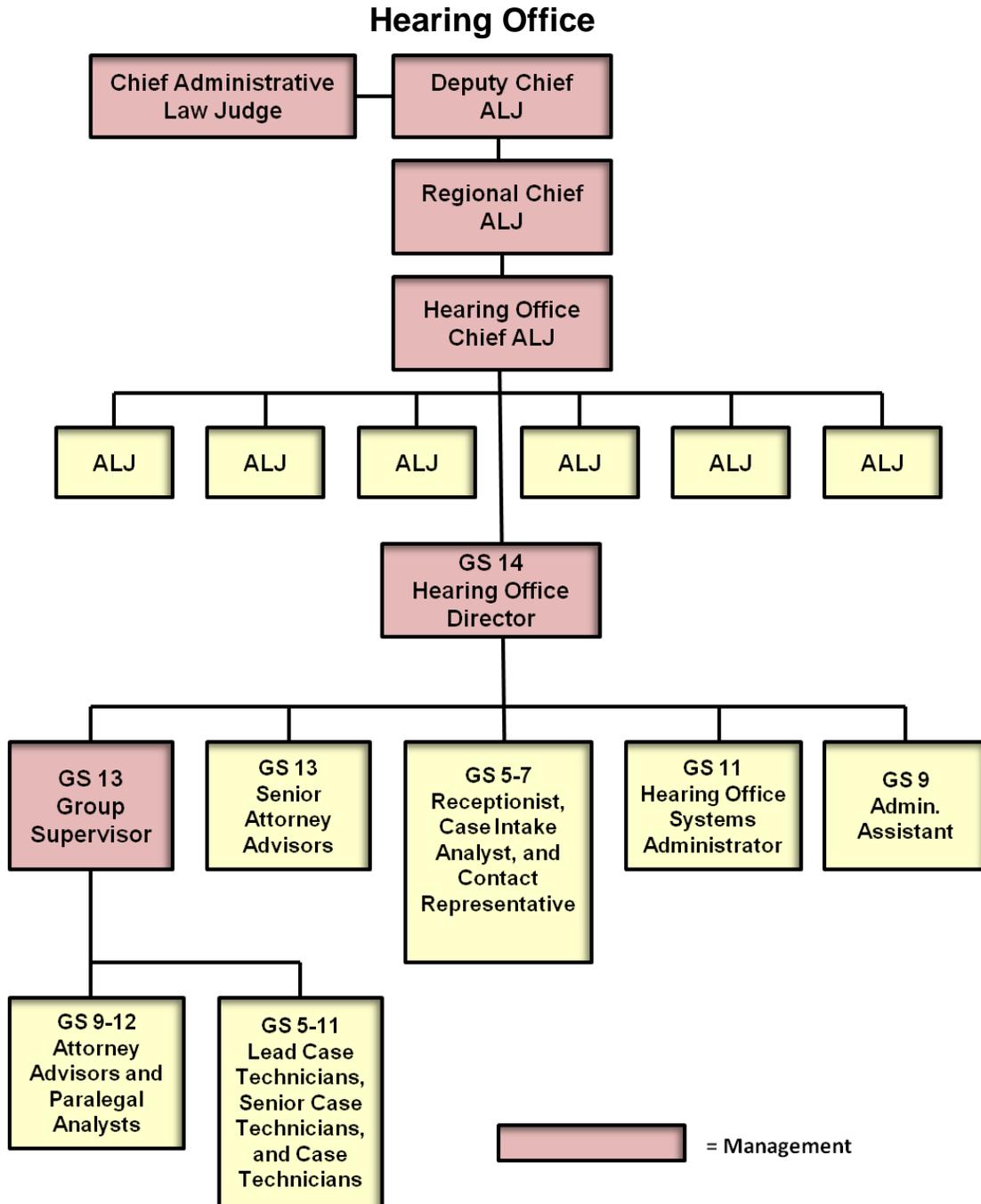
² *Id.*

New Offices Opened by Region in Fiscal Years 2010 and 2011

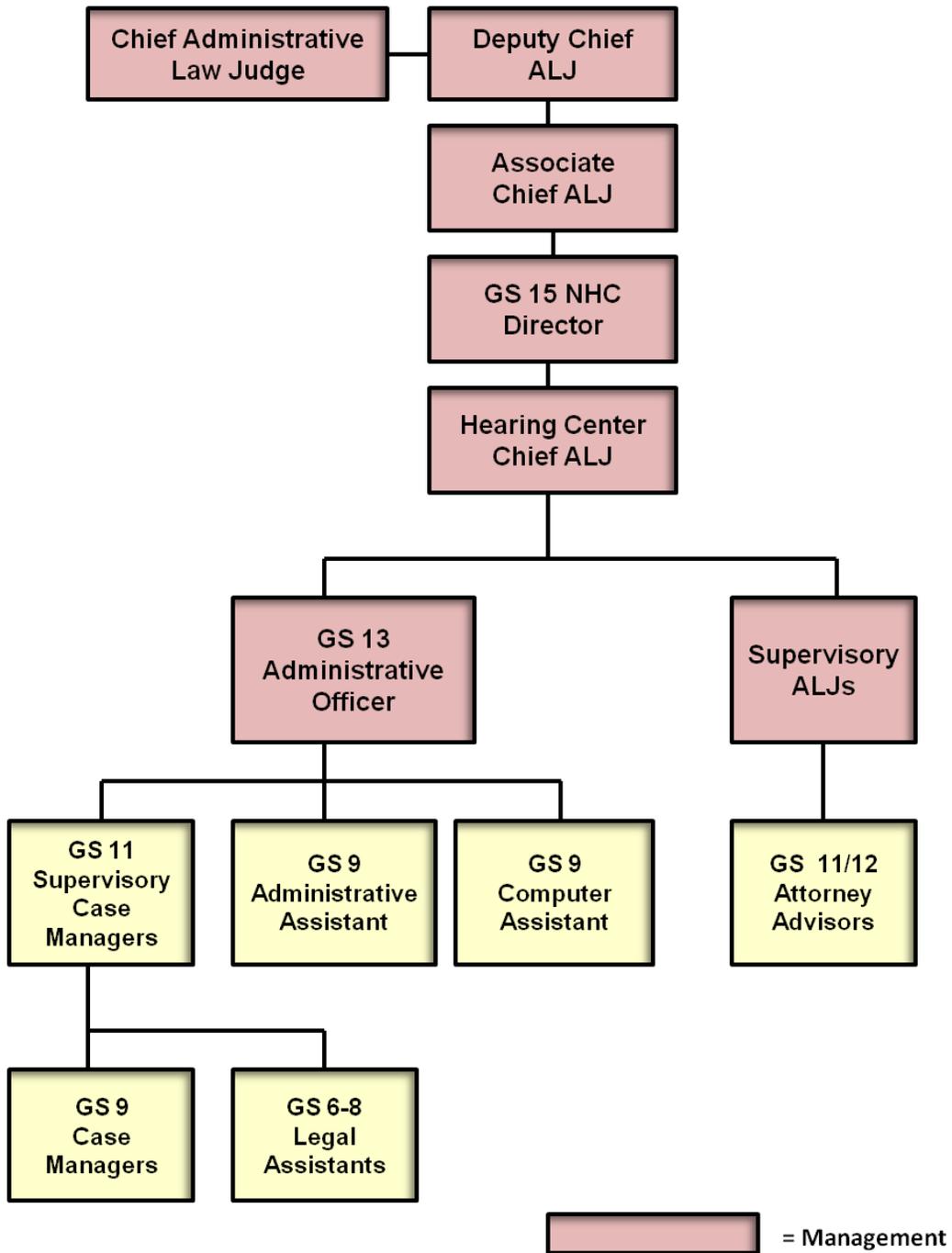
Region	Office	Type of Office	Opening Date
Region I: Boston	Lawrence, MA	Hearing Office	August 2011
Region II: New York	Jersey City, NJ	Hearing Office	July 2011
Region III: Philadelphia	McLean, VA	National Case Assistance Center (NCAC) ¹	June 2010
Region IV: Atlanta	Covington, GA	Hearing Office	September 2010
	Fayetteville, NC	Hearing Office	September 2010
	St Petersburg, FL	Hearing Office	June 2010
	Tallahassee, FL	Hearing Office	September 2010
	Ft Myers, FL	Satellite Office	July 2010
	Augusta, GA	Hearing Office	September 2011
	Franklin, TN	Hearing Office	September 2011
Region V: Chicago	Akron, OH	Hearing Office	August 2010
	Livonia, MI	Hearing Office	August 2010
	Madison, WI	Hearing Office	August 2010
	Mt Pleasant, MI	Hearing Office	September 2010
	Toledo, OH	Hearing Office	August 2010
	Valparaiso, IN	Hearing Office	September 2010
Region VI: Dallas	Rio Grande Valley, TX	Satellite Office	September 2010
Region VII: Kansas City	Topeka, KS	Hearing Office	July 2010
	St. Louis, MO	NCAC	July 2010
	Columbia, MO	Hearing Office	August 2011
Region VIII: Denver	Sioux Falls, SD	Satellite Office - Expansion	August 2010
Region IX: San Francisco	Las Vegas, NV	Hearing Office - Expansion/relocation	July 2010
	Phoenix (N), AZ	Hearing Office	June 2010
	Moreno Valley, CA	Hearing Office	September 2011
	Reno, NV	Hearing Office	September 2011
Region X: Seattle	Anchorage, AK	Hearing Office	February 2010
	Boise, ID	Satellite Office	September 2010
	Tacoma, WA	Hearing Office	August 2011

Note: NCACs provide backlog support to multiple components within ODAR as needed, including assistance hearing offices and NHCs with decision writing and case pulling. The McLean NCAC was consolidated with the St. Louis NCAC in August 2011.

Organization Charts – Hearing Office and National Hearing Center



National Hearing Center



NATIONAL HEARING CENTER POSITION DESCRIPTIONS

Title	Position Description
Hearing Center Chief Administrative Law Judge (CALJ)	The Hearing Center CALJ provides leadership and administrative direction to the administrative law judges (ALJ) in the NHC and has administrative and managerial responsibility for the support staff.
Administrative Officer (AO)	The AO serves as the principle management advisor to the Hearing Center CALJ. The AO also serves as the first- and second-line supervisor providing leadership, guidance, and direction to subordinate employees engaged in providing program and technical support to the ALJs and attorney advisors (AA) in processing requests for hearings.
Administrative Law Judge (ALJ)	An ALJ primarily holds hearings and issues decisions on electronic cases transferred to the hearing center. The ALJ may supervise one or more attorney advisor.
Attorney Advisor (AA)	The AA renders advice and assistance to the ALJ in pre-hearing development and preparation of cases for hearing, post-hearing development, and other post-hearing actions. The AA analyzes, researches, and develops cases, while formulating and drafting comprehensive decisions for the ALJ.
Supervisory Case Manager	The supervisory case manager provides guidance and direction to subordinate employees engaged in providing program and technical support to ALJs and AAs in processing claims requesting entitlement to Social Security benefits.
Case Manager/Paralegal Specialist	The case manager provides program and technical support to ALJs and AAs in processing requests for hearings. The case manager reviews and analyzes cases to determine whether the ALJ should dismiss the request for hearing hold a hearing or make a decision based on the record. Cases assigned to the case manager remain with the case manager until final adjudication and release.
Legal Assistant	The legal assistant provides legal and technical support to ALJs and other technical and professional positions in the processing of entitlement cases. The legal assistant is responsible for developing and processing a request for hearing case from its receipt in the office to its completion, independently performing a wide range of case development actions.

Title	Position Description
Administrative Assistant	The administrative assistant is responsible for providing day-to-day administrative management services essential for the operation of the hearing office. These services include aspects of budget execution and formulation, personnel administration, procurement and supply, contract administration, travel, payroll services, and reports management.
Computer Assistant	The computer assistant serves as the primary advisor to management in the use of automated data processing (ADP) systems with the responsibility for oversight, management and maintenance of ADP systems in a multi-operating system environment and as liaison with vendor representatives. This environment entails programming and processing as well as administration and management of word processing, data processing, telecommunications, batch processing, database management/programming, and security.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: March 1, 2012 Refer To: S1J-3

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

From: Dean S. Landis /s/
Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, "The Role of National Hearing Centers in Reducing the Hearings Backlog" (A-12-11-11147)—INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Teresa Rojas at (410) 966-6784.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
“THE ROLE OF NATIONAL HEARING CENTERS IN REDUCING THE HEARINGS
BACKLOG” (A-12-11-11147)**

Recommendation 1

Monitor video capacity, and as resources permit, consider increasing the number of video locations, which may include permanent remote sites, Claimant Only Videos, and Representative Video Project locations.

Response

We agree.

Recommendation 2

Ensure steps are taken to prevent claimants from choosing the administrative law judge (ALJ) hearing their case, such as removing the ALJ’s name from all hearing notices and reminding schedulers not to reveal the name of the ALJ when asked by a claimant representative.

Response

We agree.

Recommendation 3

Consider modifying the regulations to prevent claimants from declining video hearings close to the day of the hearing.

Response

We agree.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Walter Bayer, Director, Chicago Audit Division

Nicholas Milanek, Audit Manager, Falls Church Audit Office

Acknowledgments

In addition to those named above:

Parham Price, Auditor-in-Charge

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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.

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