



**SOCIAL SECURITY**  
Office of the Inspector General

June 29, 2011

The Honorable Max Baucus  
Chairman, Committee  
on Finance  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

In a January 29, 2011 letter, you asked that we assess (1) the Social Security Administration's (SSA) ability to meet its 2013 deadline for eliminating the hearings backlog; and (2) recent trends in processing times of cases at the hearing level.

Thank you for bringing your concerns to my attention. The enclosed report presents the results of our review. The report highlights various facts pertaining to the issues raised in your letter. To ensure SSA is aware of the information provided to your office, we are forwarding a copy of this report to the Agency.

If you have any questions concerning this matter, please call me or have your staff contact Misha Kelly, Congressional and Intra-Governmental Liaison, at (202) 358-6319.

Sincerely,

Patrick P. O'Carroll, Jr.  
Inspector General

Enclosure

cc:  
Michael J. Astrue

# ***CONGRESSIONAL RESPONSE REPORT***

## ***The Office of Disability Adjudication and Review's Hearings Backlog and Processing Times***

**A-12-11-21192**



June 2011

## Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

## Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.
- Promote economy, effectiveness, and efficiency within the agency.
- Prevent and detect fraud, waste, and abuse in agency programs and operations.
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.
- Access to all information necessary for the reviews.
- Authority to publish findings and recommendations based on the reviews.

## Vision

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.

## OBJECTIVE

Our objectives were to assess (1) the Social Security Administration's (SSA) ability to meet its 2013 deadline for eliminating the hearings backlog; and (2) recent trends in processing times of cases at the hearing level.

## BACKGROUND

In a January 25, 2011 letter to the Inspector General, Senator Baucus, Chairman, Committee on Finance, requested that we assess (1) SSA's ability to meet its 2013 deadline for eliminating the hearings backlog; and (2) recent trends in processing times of cases at the hearing level.

In May 2007, the Commissioner of Social Security (COSS) announced SSA's *Plan to Eliminate the Hearings Backlog and Prevent its Recurrence*. As specifically outlined in its Fiscal Years (FY) 2008-2013 Strategic Plan, SSA plans to reduce the number of pending cases to a desired level of 466,000, and the average processing time (APT) to 270 days by the end of FY 2013. According to SSA, a pending case level of 466,000 cases would be ideal based on the expected number of administrative law judges (ALJ) working in the Agency. In its Annual Performance Plan for FY 2012, SSA has continued to commit its resources to meet the pending case backlog and average processing time goals.

In July 2010, we issued a report on the status of the hearings backlog<sup>1</sup> in which we stated SSA would be able to achieve its FY 2013 pending hearings backlog goal if it had reliably projected (1) hearing level receipts, (2) ALJ availability levels, (3) ALJ productivity levels, and (4) senior attorney adjudicator (SAA) decisions through 2013. In that report, we noted that a small variance in these projections would increase SSA's targeted number of cases in its 2013 pending hearings backlog.

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<sup>1</sup> See SSA Office of the Inspector General (OIG), *Congressional Response Report: ODAR's 2013 Pending Hearings Backlog Plan (A-12-10-20114)*, July 2010.

# Results of Review

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Based on SSA's projections for ALJ productivity, SAA decisions, hearing-level receipts, and ALJ availability, we continue to believe SSA will be able to achieve its FY 2013 pending hearings backlog goal. However, the margin for meeting this goal has narrowed since our 2010 report. For instance, a 1-percent decrease in ALJ productivity or a 1-percent increase in receipts will cause SSA to miss the goal. SSA has a varying level of influence over the backlog factors used in our calculation. For example, SSA can influence ALJ productivity and the continuation of the *Senior Attorney Adjudicator* initiative. SSA has less influence over the number of hearing-level receipts and funding for ALJs and support staff. While Congress determines the level of funding for SSA operations, the Agency still has flexibility in deciding how it allocates funds.

SSA is also making progress on lowering its APT on closed cases and its average age of pending (AAP) on open cases. For example, since the start of FY 2009, the APT for closed cases has decreased by 25 percent, from an average of 476 days in October 2008 to 359 days in March 2011. During the same time, the AAP has decreased by 32 percent, to an average of 212 days. The Office of Disability Adjudication and Review's (ODAR) efforts under the *Aged Case Workload*, *National Hearing Center*, and *Video Hearing* initiatives have focused attention on older workloads, which has helped reduce processing times.

## ACHIEVING THE 2013 PENDING HEARINGS BACKLOG GOAL

Based on current projections, ODAR will meet its 2013 pending hearings backlog goal. However, compared to our previous report, ODAR's margin for meeting its 2013 goal has narrowed. Based on estimates from SSA's FY 2012 budget, we now project the Agency will have approximately 461,600 pending hearing cases by the end of FY 2013, which is slightly below the Agency's goal of 466,000 cases (see Table 1). In our 2010 review, based on estimates from SSA's FY 2011 budget, we projected that ODAR would have about 404,600 cases in its backlog by the end of FY 2013.

As in our 2010 review, we based our projections on four key variables that directly affect the pending hearings backlog: (1) new hearing receipts, (2) available ALJs, (3) ALJ productivity, and (4) SAA decisions.

**Table 1: OIG Pending Hearings Backlog Projections  
(Based on FY 2012 Budget)**

<b>Workloads/ Staffing</b>	<b>FY 2010 Actual</b>	<b>FY 2011 Projected</b>	<b>FY 2012 Projected</b>	<b>FY 2013 Projected</b>
Beginning Balance <sup>1</sup>	722,822	705,367	668,104	595,691
Projected Receipts <sup>2</sup>	720,161	777,300	751,700	682,600
ALJs Available <sup>3</sup>	1,154	1,285	1,319	1,313
ALJ Productivity <sup>4</sup>	2.38	2.37	2.35	2.34
Total ALJ Dispositions <sup>5</sup>	683,430	761,363	774,913	768,105
SAA Dispositions <sup>6</sup>	54,186	53,200	49,200	48,600
Total Dispositions <sup>7</sup>	737,616	814,563	830,708	826,553
<b>Year-End Pending<sup>8</sup></b>	<b>705,367</b>	<b>668,104</b>	<b>595,691</b>	<b>461,586</b>

**Table Notes:**

1. The FY 2011 *Beginning Balance* figure is from the Case Processing and Management System, Caseload Analysis Report. The *Beginning Balance* figures for FYs 2012 through 2013 are equal to the Year-End Pending levels from the prior FYs.
2. The FYs 2011 through 2013 *Projected Receipts* data were provided by SSA's Office of Budget, Finance and Management (OBFM).
3. The FYs 2011 through 2013 *ALJs Available* figures were provided by OBFM.
4. The FY 2010 *ALJ Productivity* figure was rounded. The FYs 2011 through 2013 *ALJ Productivity* figures were provided by OBFM.
5. *Total ALJ Dispositions* for FYs 2011 through 2013 were calculated by multiplying available ALJs x ALJ productivity x number of workdays in the year (250 days per year). In FY 2010, SSA's ALJ productivity calculation included only 249 days because of an extra holiday.
6. ODAR provided the FYs 2011 through FY 2013 *Senior Attorney Adjudicator Dispositions* projections. We describe these dispositions later in the report.
7. *Total Dispositions* is the sum of *Total ALJ Dispositions* and *Senior Attorney Adjudicator Dispositions*.
8. We calculated *Year-End Pending* by adding projected receipts to the *Beginning Balance* level and subtracting *Total Dispositions* for each FY.

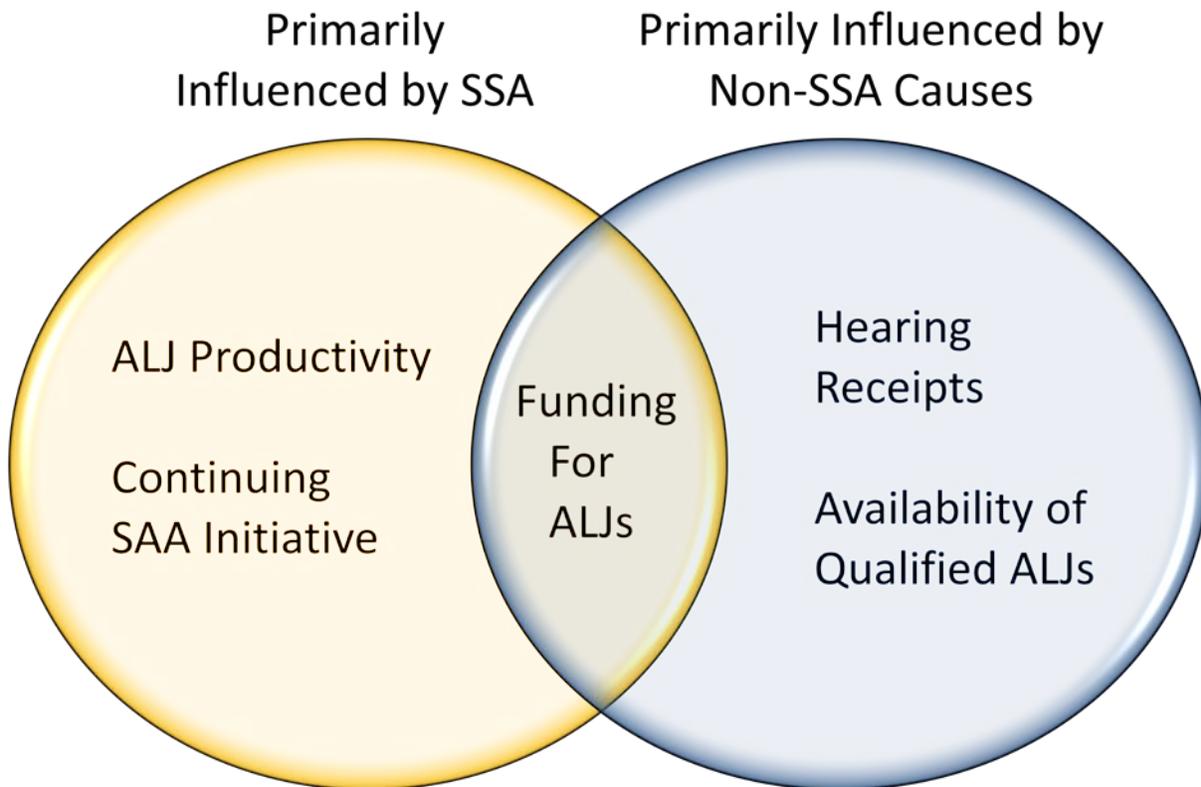
**SSA'S ROLE IN BACKLOG FACTORS**

SSA has a varying level of influence over the backlog factors used in our calculation (see Figure 1). For example, SSA has influence over ALJ productivity and the continuation of the *Senior Attorney Adjudication* initiative. SSA has less influence over the number of incoming hearing-level receipts, since according to SSA, receipts depend primarily on the economy's status.<sup>2</sup> In addition, SSA has less control over ALJ availability, which is dependent on (1) funds to hire additional ALJs and (2) a pool of qualified candidates. Funding is both outside and within SSA's control. While Congress

<sup>2</sup> While the overall volume may be outside SSA's control, the flow can be moderated based on disability determination services' (DDS) ability to process incoming cases. However, the States are facing increasing initial claim backlogs due to the economy's status. See SSA OIG reports, *The Social Security Administration's Response to State Furloughs Impacting its Disability Programs* (A-01-11-11116), March 2011, and *The Social Security Administration's Strategy for Reducing the Initial Claims Backlog* (A-07-10-10162), April 2011.

determines the level of funding for SSA operations, the Agency can control how it allocates the funds. The Office of Personnel Management (OPM)<sup>3</sup> screens ALJs and develops a roster of eligible ALJ candidates to address SSA's needs.

**Figure 1: Agency Influence over Factors Affecting the Pending Hearing Backlog Goal**



<sup>3</sup> Applicants for an ALJ position must meet experience and licensure requirements and complete an Accomplishment Record, a Written Demonstration, and a Structured Interview. Eligible candidates are placed on the ALJ register, which is used as the source of names to make referrals to agencies for employment consideration when they have entry-level ALJ vacancies to fill. Names are referred in numerical score order. It is the responsibility of the agencies to make selections from the list of candidates referred for employment consideration from among the highest three available names, pursuant to 5 C.F.R. § 332.404, taking into consideration veterans' preference rules regarding order of selection (see *Jobs for Veterans Act*, Pub. L. No. 107-288, 116 Stat. 2033, which amended title 38 U.S.C. §4214). It is OPM's responsibility to ensure that the ALJ register maintains a sufficient number of qualified ALJ candidates to meet the projected hiring needs of agencies, including enabling agencies to have an adequate number of choices for each position to be filled. Consequently, OPM will periodically reopen the ALJ examination as the need arises.

## BACKLOG FACTORS INFLUENCED BY SSA

SSA has greater influence over ALJ productivity and the continuation of the *Senior Attorney Adjudication* initiative. A 1-percent decrease in ALJ productivity or a 3-percent decrease in SAA dispositions would cause ODAR to miss its 2013 pending hearings backlog goal.

### ALJ Productivity

ODAR has made great strides in increasing ALJ productivity.<sup>4</sup> As the COSS noted at a March 2011 hearing, 74 percent of ALJs decided between 500 and 700 cases in FY 2010, an increase from late 2007 when less than half did so.<sup>5</sup> ALJ productivity, measured as the number of cases decided per day per ALJ, rose from 2.19 in FY 2007 to 2.38 in FY 2010.<sup>6</sup> Through the first 6 months of FY 2011, ALJ productivity was higher than projected, at 2.45 dispositions per day per ALJ. However, the President's FY 2012 Budget for SSA assumed a 1-percent drop in ALJ productivity by 2013. ODAR believes a 1-percent drop would come from two factors.

1. ODAR's combined screening efforts are expected to change the mix of cases heard by ALJs.<sup>7</sup> These screening will remove the easier cases from the backlog, leaving the more difficult cases for the ALJs and thereby suppressing further ALJ productivity increases.
2. Further expansion of the aged case initiative may negatively affect ALJ productivity. Historically, ODAR's aged case goal target comprised a relatively small amount of its overall dispositions. However, ODAR's 725-, 750-, or 775-day-old cases represent a much larger portion of its pending workload relative to its other aged case goals. Aged cases generally require greater development because of more complex issues, thereby requiring more time. More time equates to diminished productivity.

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<sup>4</sup> In an October 2007 memorandum, ODAR's Chief ALJ identified expectations regarding the services ALJs provide to the public. Mainly, he asked ALJs to issue 500 to 700 legally sufficient decisions each year, act on a timely basis, and hold scheduled hearings unless there is a good reason to postpone or cancel. SSA considers the 500 minimum decisions a goal, not a quota.

<sup>5</sup> See Statement of the Record of Michael J. Astrue, Commissioner of Social Security, before the Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, March 9, 2011.

<sup>6</sup> See SSA OIG, *Congressional Response Report: Hearing Office Disposition Rates (A-07-10-21015)*, January 2010.

<sup>7</sup> ODAR's senior attorney adjudicators screen cases for on-the-record (OTR) decisions. We discuss this initiative in the next section.

Under our 2012 budget backlog projections, while SSA can still meet its goal with this planned 1-percent decrease in ALJ productivity, a further decline in ALJ productivity of 1 percent from FYs 2011 through 2013 would increase the projected hearings backlog to about 484,600 cases at the end of FY 2013 (see Table 2). Accordingly, a 2-percent decline would result in about 507,700 cases and a 3-percent decline would result in about 530,700 pending cases.

**Table 2: ALJ Productivity Projections**

FY	Year End Pending			
	Current Projections	1% Decline	2% Decline	3% Decline
2013	461,586	484,631	507,675	530,718

### SAA Dispositions

Hearing office management determines how much time SAAs dedicate to adjudication versus other duties. In FY 2010, SAAs issued 54,186 OTR decisions, representing about 7.3 percent of all dispositions.

In our 2010 hearings backlog review, we noted that ODAR would need to extend the SAA program through 2013 for the Agency to gain the full benefit of this initiative. On April 4, 2011, SSA issued a final rule extending the sunset date of the SAA authority to August 9, 2013,<sup>8</sup> ensuring the program would run almost the full duration of the 2013 backlog plan.<sup>9</sup>

As noted in our backlog projections (see Table 1), SAA decisions are projected to decline from FY 2010 levels in FYs 2011 to 2013. ODAR is projecting the number of SAA decisions to decrease once the number of older cases requiring an easier OTR decision diminishes. ODAR managers stated some of the older cases could be resolved more easily with updated medical evidence since the claimant's medical condition often worsened.

However, in FYs 2009 and 2010, ODAR exceeded its projected number of SAA dispositions, with SAA dispositions exceeding projections by about 3 and 9 percent for FYs 2009 and 2010, respectively. For example, ODAR originally projected 49,800 SAA decisions in FY 2010, and later exceeded this goal by about 4,400 cases. Hence, ODAR may exceed these projections again. Though in the first 6 months of 2011, SAAs had decided slightly more than 26,100 cases, which would put them on pace to meet the FY 2011 goal.

<sup>8</sup> Federal Register (FR), 76 FR 18383, April 4, 2011.

<sup>9</sup> We are completing work on a separate report we will issue later this year, *Senior Attorney Adjudicator Program (A-12-10-11018)*.

Under the 2012 budget backlog projections, if ODAR has a 1-percent reduction in SAA dispositions from FYs 2011 through 2013, the model projects a corresponding level of about 463,000 pending hearing cases at the end of FY 2013 (see Table 3). A 2-percent reduction in SAA dispositions will still keep SSA below its goal. However, a decrease of 3 percent will result in slightly more than 466,000 pending cases.

**Table 3: Senior Attorney Adjudicator Disposition Projections**

FY	Year End Pending			
	Current Projections	1% Decline	2% Decline	3% Decline
2013	461,586	463,097	464,607	466,117

## BACKLOG FACTORS MORE DEPENDENT ON OUTSIDE ISSUES

While ODAR has made progress, it faces significant challenges in meeting the 2013 goals. For instance, small variances in hearing receipts can affect ODAR's ability to meet its 2013 pending backlog goal. In addition, SSA relies on both the Congress and OPM to ensure it has sufficient resources and small changes in ALJ availability can similarly cause ODAR to miss its hearings backlog goal.

### Hearing Receipts

SSA's projections show a decline in the number of hearing receipts in FYs 2011 through 2013. SSA projects hearing receipts to peak in FY 2011 with 777,300 cases. In addition, SSA expects receipts to drop in FY 2013 by almost 95,000 cases from the FY 2011 level. As we noted earlier, receipts depend on the state of the economy as well as the operations of the DDSs. Other factors may also increase hearing receipts. For example, during the first 8 months of FY 2011, ODAR received approximately 47,000 more receipts than expected, which ODAR managers attributed in part to a higher rate of appeal on DDS denials.

Using the 2012 budget backlog projections, SSA's ability to achieve its 2013 pending hearings backlog goal (466,000 cases) will be at risk if the Agency receives 1 percent more hearing receipts each year from 2011 through 2013 than projected. We determined a 1-percent increase in receipts would cause the number of pending cases to exceed the 2013 goal by about 17,700 cases (see Table 4). A 2-percent increase in receipts would result in about 39,800 more cases, and a 3-percent increase would result in about 68,500 more cases.

**Table 4: Receipt Projections**

FY	Year End Pending			
	Current Projections	1% Increase	2% Increase	3% Increase
2013	461,586	483,703	505,819	534,535

## Allocation of Funding

In March 2011, the COSS stated that without the level of funding in the President's 2012 Budget, it was highly likely that SSA would miss its goal of eliminating its hearings backlog in 2013.<sup>10</sup> After the extended Continuing Resolution, SSA's budget for FY 2011 was about \$1 billion less than the President's budget. At the time of our review, ODAR managers were still adjusting funding priorities, so it was not clear what affect this budget reduction would have on ODAR's operations. However, we have determined that ODAR will miss its 2013 pending hearings backlog goal if projected receipts increased by 1 percent or ALJ availability drops by 1 percent.

ODAR took several steps earlier to address a smaller 2011 budget. Since July 2010, ODAR implemented a headquarters and regional hiring freeze. Compared to our previous report, ODAR's backlog plan reduced the number of available ALJs to work down the backlog, and consequently, the margin for meeting the backlog goal narrowed by about 60,000 cases. In addition, ODAR management stated the Agency would open only 8 of the 16 hearing offices planned for FY 2011.<sup>11</sup> Further, in FY 2011, the Agency discontinued the *Operations Overtime Assistance* initiative,<sup>12</sup> which assisted ODAR with folder assembly and other grade-appropriate tasks<sup>13</sup> at the most heavily affected hearing offices.

SSA may have other opportunities to redirect resources and even reinstate overtime support for ODAR from other components, though budget constraints affect all SSA's operations. Hence, borrowing resources from another component may affect other Agency workloads, such as processing initial disability applications.

## Available ALJs

In FY 2009, as a result of additional Agency funding, ODAR increased the number of its ALJs to approximately 1,200, and its hearing office managers and support staff to about 6,200. This brought ODAR's national staffing ratio to about 5.1 staff per ALJ, exceeding

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<sup>10</sup> See Statement for the Record of Michael J. Astrue, Commissioner of Social Security, before the Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, March 9, 2011.

<sup>11</sup> In some cases, SSA converted a satellite hearing office to a full hearing office to allow claimants in the affected areas access to an ALJ.

<sup>12</sup> See Appendix C for more information on this initiative.

<sup>13</sup> Workload tasks include the following: folder assembly, formatting compact discs, associating paper and electronic mail, application and query printing, photocopying records for expert witnesses, scanning, ALJ folder preparation, alphabetizing, mailing decisions, photocopying for consultative exam requests, filing closed files, folder audit or inventory, reception duties, scheduling, noticing, creating barcodes, mirroring, and filing ALJ folders. This overtime initiative assisted with over 225,000 workload tasks in FY 2010.

the Agency’s national goal of 4.5 staff per ALJ at some hearing offices. At the time of our review, ODAR noted its staff-per-ALJ ratio was 4.5, which it hoped to maintain at the regional level if not the hearing-office level.<sup>14</sup>

SSA assumed an annual attrition rate of 60 ALJs and expected to hire 70 ALJs in FY 2011, thereby increasing the ALJ ranks by 10 positions. As outlined in the FY 2012 budget proposal, SSA also planned to hire 51 ALJs in FY 2012 and 65 in FY 2013. However, during the first half of FY 2011, ODAR lost 48 ALJs through attrition, which was more than anticipated. With increased receipts and higher ALJ attrition, ODAR plans to hire 130 ALJs this FY. With the additional ALJ hiring, ODAR may also need to hire additional support staff. The FY 2012 budget allowed hiring for 336 support staff at the 8 new hearing offices being opened in FY 2011. At the time of our review, ODAR did not have staffing plans for FY 2012 and beyond, as staffing plans are developed before the start of each FY.

According to our 2012 budget backlog projections, SSA’s ability to achieve its 2013 backlog goal will be at risk if the number of available ALJs is 1 percent less per year than projected from FYs 2011 through 2013 (see Table 5). If the number of available ALJs declined by 1 percent from FYs 2011 through 2013, the year-end pending cases for FY 2013 would rise to about 484,600 cases. A 2-percent decrease would result in about 507,700 pending cases, and a 3-percent decrease would result in about 530,700 pending cases.

**Table 5: ALJ Availability Projections**

Fiscal Year	Year End Pending			
	Current Projections	1% Decline	2% Decline	3% Decline
2013	461,586	484,631	507,675	530,718

## ACHIEVING THE TIMELINESS GOAL

ODAR’s FY 2013 timeliness goal is to reduce its APT<sup>15</sup> to 270 days. Trends since the beginning of FY 2009 show that the APT for closed cases has decreased by 25 percent, and the AAP<sup>16</sup> for open cases has decreased by about 32 percent (see Figure 2). A number of factors allowed ODAR to achieve this success, such as re-allocating

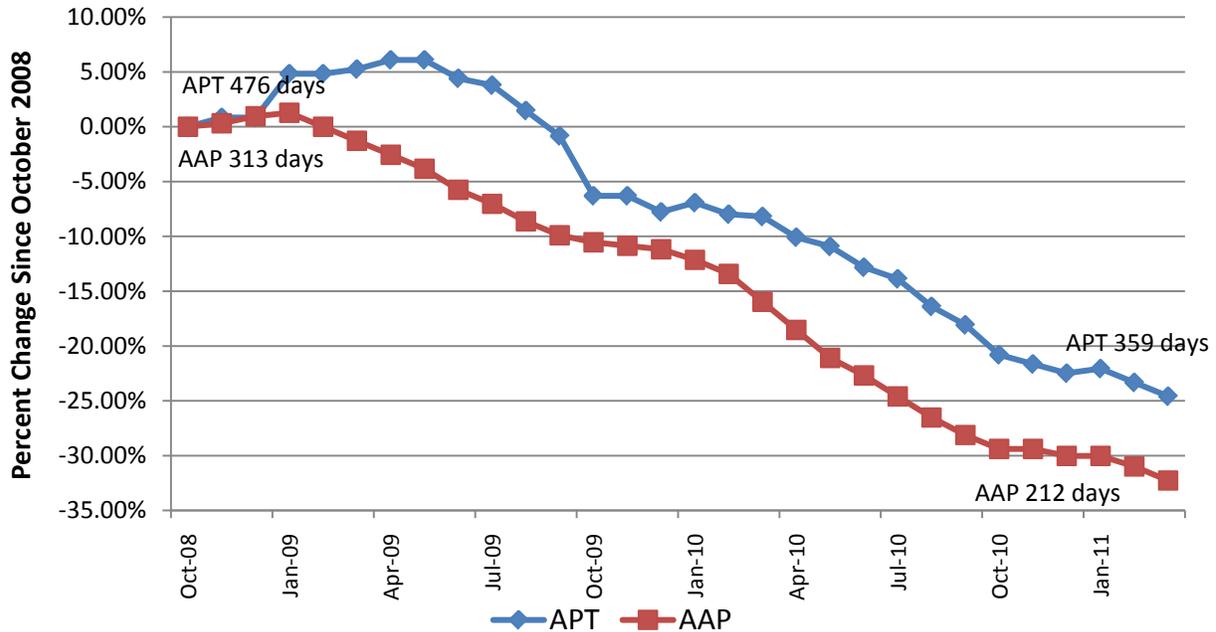
<sup>14</sup> Adequate staffing is an important part of ALJ productivity. In our February 2010 audit, *Hearing Office Performance and Staffing* (A-12-08-28088), we found that hearing offices with adequate staffing ratios and the right mix of staff were factors in hearing office performance. For instance, hearing offices that met or exceeded ODAR’s goal of 1.5 decision writers per ALJ had an average disposition rate nearly 9 percent higher than hearing offices that had a ratio less than the goal.

<sup>15</sup> ODAR calculates processing time for closed cases by determining the number of days from the request for hearing date through the date of disposition. ODAR’s national APT is a calculation of all the closed cases during each FY.

<sup>16</sup> To calculate the average age of pending, ODAR determines the time from the request for hearing date to the last day of the reporting period, divided by the subsequent application closing pending count.

resources,<sup>17</sup> funding under the *American Recovery and Reinvestment Act (ARRA)*<sup>18</sup> in FYs 2009 and 2010, and implementing backlog initiatives.<sup>19</sup>

**Figure 2: Trends in Average Processing Time and Average Age of Pending (Since October 2008)**



## AVERAGE PROCESSING TIME

ODAR has set benchmarks for processing stages as the cases move through the hearing office.<sup>20</sup> The purpose of these benchmarks is to ensure timely case movement and proper management of the pending workloads to prevent bottlenecks in the hearing office process. If a case meets all the benchmark goals, the processing time should take approximately 270 days per case.

<sup>17</sup> See Statement of the Record of Michael J. Astrue, Commissioner of Social Security, before the Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, March 9, 2011.

<sup>18</sup> ARRA was signed into law on February 17, 2009, Pub. L No. 111-5, 123 Stat. 115, 185-186, Division A, Title VIII Social Security Administration (2009). One goal of ARRA funding was to preserve and create jobs. ARRA provided SSA with \$500 million to process the increasing disability and retirement workloads caused in part by the economic downturn and the leading edge of the baby boomer retirements. See SSA OIG, *The Office of Disability Adjudication and Review's Staffing Plans under the American Recovery and Reinvestment Act* (A-12-09-29140), December 2009.

<sup>19</sup> We conducted a number of audits on ODAR's backlog initiatives. See Appendix C for more information on these initiatives and the related OIG reviews.

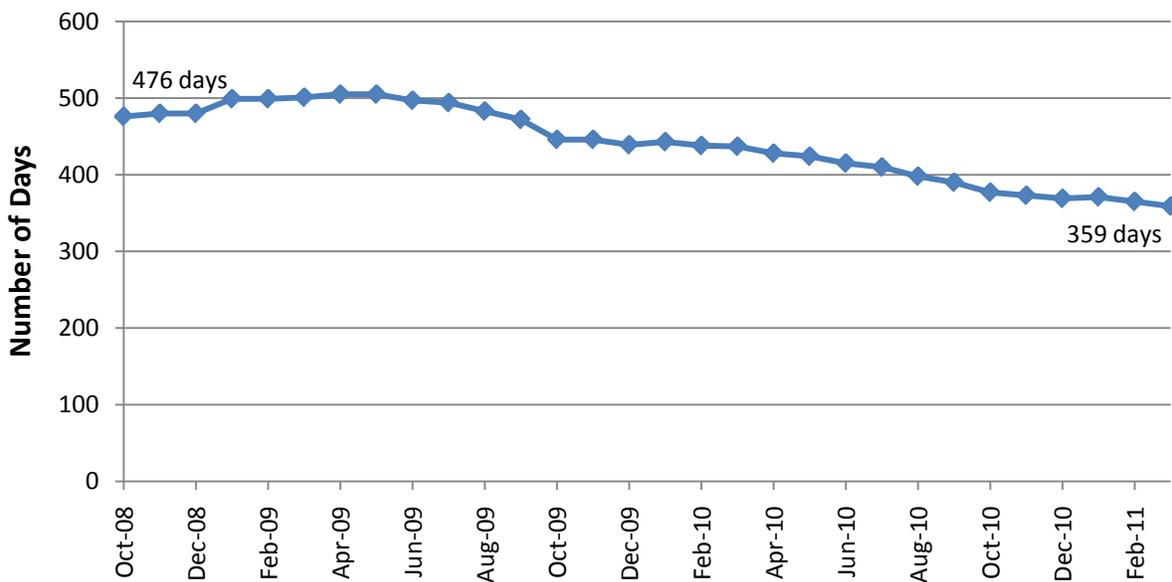
<sup>20</sup> See Appendix D for more information on *Quality Case Processing Benchmarks*.

Various SSA initiatives, including the *Video Hearing*, *National Hearing Center*, and *Senior Attorney Adjudicator* initiatives, increased ODAR's ability to assist hearing offices with significant backlogs while adding new resources. For instance, excessive backlogs from one hearing office could be handled by other offices via video hearings, allowing more timely hearings for all claimants involved. Moreover, SAAs located nationwide similarly assisted backlogged offices while deciding OTR cases more quickly than cases requiring a hearing.

The APT has dropped 117 days since the start of FY 2009. SSA's APT was 476 days in October 2008, peaked at 505 days in April 2009, and started to decrease in June 2009 (see Figure 3). With the exception of January 2010 and January 2011, the APT has steadily decreased since June 2009.

While the Agency has made progress in its timeliness measure, ODAR will need to reduce its APT an average of 3 days each month for the next 30 months to meet its goal of 270 days. Our analysis of recent trends shows that ODAR has reduced APT an average of about 4 days each month since October 2008.

**Figure 3: Trend in Average Processing Time for Hearing Requests**

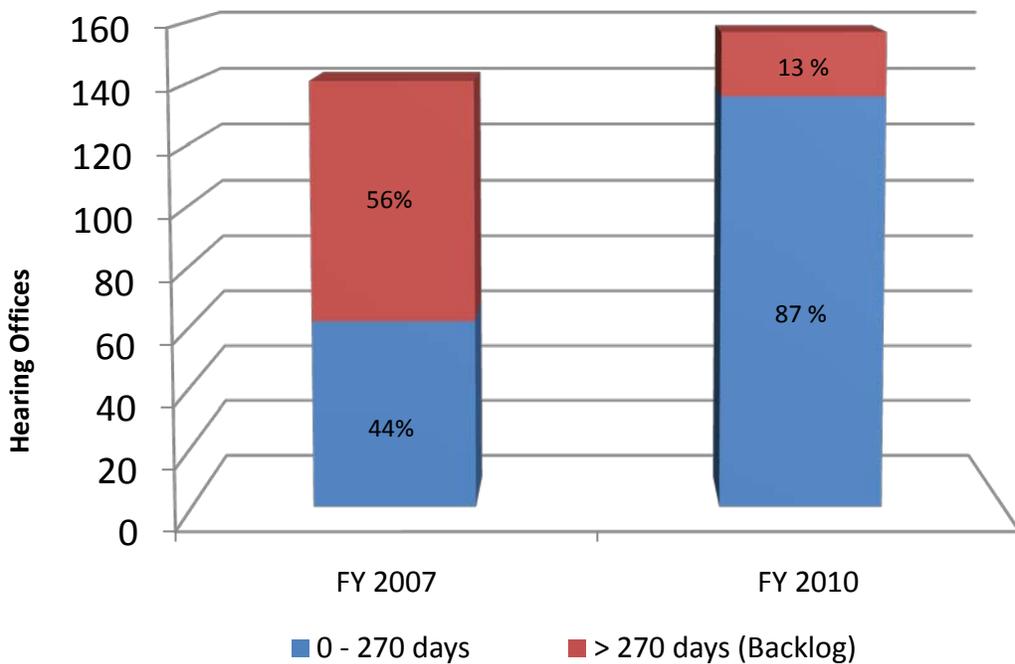


### AVERAGE AGE OF PENDING WORKLOAD

ODAR has also made progress in reducing the average age of its pending workload. The number of hearing offices with an AAP of 270 days or more has decreased since FY 2007 (see Figure 4). In FY 2007, about 79 of the 141 hearing offices had an AAP of more than 270 days. In FY 2010, only 21 of the 157 hearing offices had an AAP of more than 270 days, a 73-percent decrease from FY 2007.

ODAR's efforts under the *Aged Case Workload* initiative<sup>21</sup> have contributed to the continued reduction of open cases' AAP. In FY 2007, SSA began the initiative with emphasis on processing the oldest cases in the backlog, as part of the first steps to decrease overall processing time. In FY 2007, ODAR identified 63,770 cases that would be 1,000 days old or older by the end of the FY. Thereafter, the Agency established targets to eliminate an aged workload for each FY. At the beginning of FY 2011, ODAR focused on processing the 106,715 cases that would be 775 days old or older by the end of FY 2011. As of March 2011, ODAR reported it had reduced this number to about 18,100 cases.

**Figure 4: Average Age of Pending at the Hearing Offices  
FY 2007 vs. FY 2010**



**Note:** ODAR opened 16 Hearing Offices between FYs 2007 and 2010.

<sup>21</sup> See SSA OIG, *Aged Claims at the Hearing Level* (A-12-08-18071), September 2009.

## Conclusions

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We determined that, based on current projections, ODAR can still meet its 2013 pending hearings backlog goal. We also found ODAR made progress in reducing pending hearings and improving timeliness, even with SSA's varying level of influence over certain backlog factors. However, SSA is facing significant budgetary challenges in meeting the 2013 goal. Based on our 2012 budget backlog projections, SSA will miss its goal to eliminate its pending hearing backlog by 2013 if ALJ availability is 1 percent lower than projected. Moreover, a 1-percent variance in projected receipts or ALJ productivity could cause SSA to miss its 2013 pending hearings backlog goal. Continued diligence by Agency managers, ALJs, and staff; ongoing flexibility in the use of available resources; and an improving economy will enhance ODAR's ability to eliminate the backlog by 2013.

# Appendices

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APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Initiatives Designed to Reduce and Eliminate the Hearings Backlog

APPENDIX D – Benchmarks for Quality Case Processing

## Acronyms

AAP	Average Age of Pending
ALJ	Administrative Law Judges
APT	Average Processing Time
ARRA	<i>American Recovery and Reinvestment Act</i>
CFR	Code of Federal Regulations
COSS	Commissioner of Social Security
CPMS	Case Processing and Management System
DDS	Disability Determination Services
FR	Federal Register
FY	Fiscal Year
MER	Medical Evidence of Record
OBFM	Office of Budget, Finance and Management
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
OQP	Office of Quality Performance
OPM	Office of Personnel Management
OTR	On-the-Record
Pub. L. No.	Public Law Number
SAA	Senior Attorney Adjudicator
SSA	Social Security Administration
USC	United States Code
VSU	Virtual Screening Unit

# Scope and Methodology

To accomplish our objective, we:

- Reviewed applicable laws and Social Security Administration (SSA) 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.
- Consulted with SSA and ODAR managers to obtain updated information on the status of the pending hearings backlog plan. Requested copies of budget projections, disability determination services workloads, and hiring plans.
- Reviewed the Agency's backlog reduction initiatives to identify those related to the pending hearings backlog.
- Analyzed the assumptions the Agency used to project the pending hearings backlog through Fiscal Year (FY) 2013, particularly as it related to hearing receipts, administrative law judge (ALJ) availability, ALJ productivity, and workloads under the *Senior Attorney Adjudicator* initiative. In the case of FY 2010, we obtained the actual hearing receipts, ALJ availability, ALJ productivity, and workloads under the *Senior Attorney Adjudicator* initiative as reported by the Agency and used this information as part of our review of future expectations.
- Examined scenarios with both reduced and increased hearing receipts, ALJ availability, and both ALJ and senior attorney adjudicator productivity to determine the effect on the pending hearings backlog by FY 2013.
- Reviewed case statistics, including month-to-month pending, average processing times, and average age of pending for the last 3 years.

We found that FY 2010 data were sufficiently reliable to meet our objective. However, as noted in the report, future estimates are subject to change based on a number of cited factors, as well as other potential factors not enumerated here. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted this performance audit from February through May 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.

# Initiatives Designed to Reduce and Eliminate the Hearings Backlog

The Office of Disability Adjudication and Review (ODAR) has implemented a number of initiatives related to assisting hearing offices in processing its workload, including the (1) *Aged Case Workload*, (2) *National Hearing Center (NHC)*, (3) *Video Hearing*, (4) *Senior Attorney Adjudicator*, and (5) *Operations Overtime Assistance*.

## AGED CASE WORKLOAD INITIATIVE

In Fiscal Year (FY) 2007, the Agency began the *Aged Case Workload* initiative, which emphasized processing the oldest cases in the backlog. In FY 2007, ODAR identified 63,770 cases that would be 1,000 days old or older by the end of the FY. The Agency established a target to eliminate a specific aged workload for each FY thereafter. At the beginning of FY 2011, ODAR focused on the 106,715 cases that would be 775 days old or older by the end of FY 2011. As of March 2011, ODAR reported it had reduced this number to about 18,100 cases.

## NHC INITIATIVE

NHCs are part of the Agency's strategy to address the historic hearings backlog and reduce case processing time by increasing adjudicatory capacity and efficiency with a focus on an electronic hearings process. At an NHC, ALJs hold all hearings using video equipment installed in each administrative law judge's (ALJ) office, thereby eliminating potential issues with hearing room capacity. This initiative was implemented with the opening of the fifth and largest NHC in St. Louis, Missouri, in July 2010.<sup>1</sup>

## VIDEO HEARING INITIATIVE

The goal for the *Video Hearings* initiative was to increase the number of video hearings and subsequently decrease ALJ travel and increase ALJ productivity. The Social Security Administration (SSA) implemented this initiative by increasing the number of video hearing units in hearing office and permanent remote sites. The number of hearings held by video increased by 260 percent over a 4-year period, from 23,418 in FY 2005 to 84,121 in FY 2009.<sup>2</sup> Approximately 18 percent of all hearings was conducted by video in FY 2009, and another 20 percent of all hearings in FY 2010.

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<sup>1</sup> Other NHCs are located in Albuquerque, New Mexico; Baltimore, Maryland; Chicago, Illinois; and Falls Church, Virginia. We are completing a separate review of the NHCs that we will issue in FY 2012.

<sup>2</sup> See SSA OIG, *Use of Video Hearings to Reduce the Hearing Case Backlog* (A-05-08-18070), April 2011.

## SENIOR ATTORNEY ADJUDICATOR INITIATIVE

The *Senior Attorney Adjudicator* initiative was reinstated in November 2007 and was designed to improve the disability determination process and increase adjudication capacity. This initiative allows non-ALJs to issue fully favorable on-the-record decisions to expedite the decision and conserve valuable ALJ resources for the more complex cases that require a hearing. In FY 2010, the Agency expanded the Senior Attorney Adjudicator initiative by implementing a Virtual Screening Unit (VSU). Nationwide, ODAR had detailed approximately 100 Senior Attorneys in hearing offices to the VSU to screen cases under directions from its Headquarters in Falls Church, Virginia.<sup>3</sup> Cases are selected using profiles developed by the Office of Quality Performance (OQP) designed to identify cases with a high probability of a favorable decision. OQP staff also screen and share cases that meet these criteria with ODAR for processing by senior attorney adjudicators. In April 2011, the Senior Attorney Adjudicator program was extended for an additional 2 years.<sup>4</sup>

## OPERATIONS OVERTIME ASSISTANCE INITIATIVE

ODAR implemented the *Operations Overtime Assistance* initiative to use the resources of other SSA components to perform folder assembly and other grade appropriate tasks on overtime in the most heavily affected hearing offices. To maximize the number of legally sufficient decisions ALJs issue, ODAR must first fill the ALJ dockets. The Commissioner increased the overtime allocation for hearing offices to assist with these duties. One of the primary uses was case preparation. This initiative, which assisted ODAR with more than 225,000 workload tasks in FY 2010, was discontinued for FY 2011.

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<sup>3</sup> We are completing a separate review of the *Senior Attorney Adjudicator* initiative that we will issue later this year.

<sup>4</sup> To increase the number of issued decisions, SSA's final rule extending the sunset date of the Attorney Adjudicator authority to August 9, 2013 was published on April 4, 2011 in the Federal Register, 76 FR 18383.

## Quality Case Processing Benchmarks

Case Processing and Management System (CPMS) Code <sup>a</sup>	Benchmark (Calendar Days)	Comments
Master Docket	21	Receipt of claim file through auto establish in CPMS
Pre-hearing and Post-hearing – Prior Files	28	Requests for prior files (diary for 28 days)
Pre-hearing and Post-hearing – Medical Evidence of Record (MER)	21	Requests for MER from treating sources (diary for 10 days for follow up)
Pre-hearing and Post-hearing – Consultative Examinations (CE)	21/63	21 days to be sure the CE is scheduled and 63 days to be sure the CE report is received at the hearing office
Temporary Transfer	42	Cases transferred to other hearing offices for case preparation or decision drafting should be completed and returned to the original hearing office within 42 days
Decision Writer – Unpulled File Review	7	Pre-hearing review by administrative law judge (ALJ)/senior attorney adjudicator/attorney assistant/paralegal assistant drafting decision
Work-up	7	Case workup (assembly/development/analysis)
ALJ Review – Pre-Hearing	7 <sup>b</sup>	ALJ review (pre-scheduling)
ALJ – Post Hearing Review	7 <sup>b</sup>	ALJ review (post-hearing)
ALJ Writing Decision/ Assigned Writer Personal Computer	14	ALJ drafting decision
Decision Writer Personal Computer/ Decision Writer Writing Decision	7	Drafting decision by senior attorney adjudicator/attorney assistant/paralegal assistant
Edit	7	Editing decision by ALJ/senior attorney adjudicator/attorney assistant/paralegal assistant drafting decision
Corrections	7	Typographical corrections to be corrected on ALJ decision
Sign	1 <sup>b</sup>	Case in the ALJ's office waiting final review and signature
Mail	1	Awaiting mailing of ALJ decision

**Table Notes:**

a. Each case does not necessarily go through every step. For instance, a case may not require a CE. In addition, not all steps in the hearing process are shown among these benchmarks. For example, the scheduling of a hearing is not included among the steps. Hearing offices attempt to schedule hearings at least 3 months in advance.

b. ALJ on travel docket/unavailable, timeframe begins upon return to hearing office.

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## **Overview of the Office of the Inspector General**

The Office of the Inspector General (OIG) is comprised of an Office of Audit (OA), Office of Investigations (OI), Office of the Counsel to the Inspector General (OCIG), Office of External Relations (OER), and Office of Technology and Resource Management (OTRM). To ensure compliance with policies and procedures, internal controls, and professional standards, the OIG also has a comprehensive Professional Responsibility and Quality Assurance program.

### **Office of Audit**

OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

### **Office of Investigations**

OI conducts investigations related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

### **Office of the Counsel to the Inspector General**

OCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCIG also advises the IG on investigative procedures and techniques, as well as on legal implications and conclusions to be drawn from audit and investigative material. Also, OCIG administers the Civil Monetary Penalty program.

### **Office of External Relations**

OER manages OIG's external and public affairs programs, and serves as the principal advisor on news releases and in providing information to the various news reporting services. OER develops OIG's media and public information policies, directs OIG's external and public affairs programs, and serves as the primary contact for those seeking information about OIG. OER prepares OIG publications, speeches, and presentations to internal and external organizations, and responds to Congressional correspondence.

### **Office of Technology and Resource Management**

OTRM supports OIG by providing information management and systems security. OTRM also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, OTRM is the focal point for OIG's strategic planning function, and the development and monitoring of performance measures. In addition, OTRM receives and assigns for action allegations of criminal and administrative violations of Social Security laws, identifies fugitives receiving benefit payments from SSA, and provides technological assistance to investigations.