



Office *of the* Inspector General

SOCIAL SECURITY ADMINISTRATION

Audit Report

Hearing Office Case Rotation Among
Administrative Law Judges

A-12-12-11274 | March 2013

OIG Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

MEMORANDUM

Date: March 14, 2013

Refer To:

To: The Commissioner

From: Inspector General

Subject: Hearing Office Case Rotation Among Administrative Law Judges (A-12-12-11274)

The attached final report presents the results of our audit. Our objective was to determine whether hearing cases were properly rotated among administrative law judges. More specifically, we focused on the frequency of a single claimant representative appearing before an administrative law judge.

If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.



Patrick P. O'Carroll, Jr.

Attachment

Hearing Office Case Rotation Among Administrative Law Judges

A-12-12-11274



March 2013

Office of Audit Report Summary

Objective

To determine whether hearing cases were properly rotated among administrative law judges (ALJ). More specifically, we focused on the frequency of a single claimant representative appearing before an ALJ.

Background

The Office of Disability Adjudication and Review (ODAR) has established policies and procedures that govern the rotation of claims at its hearing locations. In general, a Hearing Office Chief ALJ “. . . assigns cases to ALJs from the master docket on a rotational basis, with the earliest (i.e., oldest) [requests for hearing] receiving priority, unless there is a special situation which requires a change in the order in which a case is assigned.”

In June 2011, ODAR’s Chief Judge issued a memorandum that established additional controls over case assignment to further enhance hearing office management’s ability to ensure proper case rotation. In the memorandum, the Chief Judge noted, “Because cases are assigned on a rotational basis, one ALJ should not be assigned a disproportionate share of the cases from any specific representative.”

Our Findings

Our review of the Fiscal Year (FY) 2011 and 2012 data found that four hearing offices had rotation issues throughout the period that were primarily related to their remote sites. From our interviews with hearing office managers and ALJs, we learned that the rotation issues existed for a number of reasons, including (1) ALJs were permitted to choose which remote sites to visit, (2) ALJs did not want to travel to remote sites, (3) parent hearing offices and remote sites lacked sufficient video hearing capacity, (4) claimant representatives declined video hearings even when equipment was available, and (5) ALJs were permanently stationed at remote sites or satellite offices.

We also determined that the number of hearing offices with rotation issues declined over the 18-month period. Five hearing offices with rotation issues in FY 2011 did not appear in our FY 2012 data, though three additional hearing offices showed rotation issues in FY 2012. In our discussions with managers at the five hearing offices that resolved their rotation issues, we learned the reasons for the improvement included (1) expanded video capacity, (2) increased management oversight, (3) changes in ALJs, and (4) reassignment of a remote site. Some of these practices could assist the hearing offices still experiencing rotation problems.

Our Recommendations

To improve the rotation of hearing cases, we recommend the Agency:

1. Continue monitoring the seven hearing offices with rotation issues in the first 6 months of FY 2012 to ensure the proper resolution of rotation issues.
2. Remind hearing office managers that ALJ coverage of remote sites should be consistent with rotation policy and involve all ALJs to the extent possible.

The Agency agreed with the recommendations.

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ABBREVIATIONS

ALJ	Administrative Law Judge
COV	Claimant-Only Video (site)
CPMS	Case Processing and Management System
CRR	Congressional Response Report
FY	Fiscal Year
HALLEX	Hearings, Appeals and Litigation Law Manual
HOCALJ	Hearing Office Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
RCALJ	Regional Chief Administrative Law Judge
SO	Satellite Office
SSA	Social Security Administration

OBJECTIVE

Our objective was to determine whether hearing cases were properly rotated among administrative law judges (ALJ). More specifically, we focused on the frequency of a single claimant representative appearing before an ALJ.

BACKGROUND

Approximately 1,500 ALJs in more than 165 hearing offices and 5 National Hearing Centers conduct Social Security Administration (SSA) benefit program hearings from these locations as well as remote sites.¹ The Office of Disability Adjudication and Review (ODAR) established policies and procedures that govern the rotation of claims at its hearing locations. In general, a Hearing Office Chief ALJ (HOCALJ) “. . . assigns cases to ALJs from the master docket on a rotational basis, with the earliest (i.e., oldest) [requests for hearing] receiving priority, unless there is a special situation which requires a change in the order in which a case is assigned.”² In testimony prepared for a congressional hearing in June 2012, SSA’s Commissioner stated that assigning hearing cases to ALJs in rotation “. . . promotes fairness and reduces manipulation of judicial assignment.”³

In June 2011, ODAR’s Chief Judge issued a memorandum that established additional controls over case assignment to further enhance hearing office management’s ability to ensure proper case rotation.⁴ In the memorandum, the Chief Judge noted, “Because cases are assigned on a rotational basis, one ALJ should not be assigned a disproportionate share of the cases from any specific representative.” In Fiscal Year (FY) 2011, ODAR also began developing an early monitoring system to measure ALJ performance based on a combination of risk factors, including the frequency of an ALJ’s hearings with the same claimant representative.⁵

¹ Many hearing offices have remote sites generally located 75 miles or farther from a parent hearing office. ALJs either travel to the site to conduct in-person hearings or conduct hearings using video technology.

² Hearings, Appeals Litigation Law Manual (HALLEX) I-2-1-55A – *Assignment of Service Area Cases to ALJs*.

³ *Fourth in a Hearing Series on Securing the Future of the Social Security Disability Insurance Program: Hearing before the H. Committee on Ways and Means, Subcommittee on Social Security, 112th Congress (June 27, 2012)* (statement of Michael J. Astrue, Commissioner, Social Security Administration).

⁴ *Case Assignment and Other Important Reminders*, memorandum from Chief ALJ Debra Bice, June 3, 2011.

⁵ SSA Office of the Inspector General (OIG), *Identifying and Monitoring Risk Factors at Hearing Offices* (A-12-12-11289), January 2013.

Prior SSA OIG reviews identified ALJ rotation issues at hearing offices. Our February 2012 congressional report⁶ identified an ALJ who had a disproportionate number of cases with a single claimant representative, indicating a potential problem with case rotation in that office. While this ALJ conducted about 59 percent of his workload with one claimant representative, we determined that under normal rotation procedures, only about 11 percent of this ALJ's workload should have been with this claimant representative. We identified similar problems in a September 2007 audit⁷ that found over a 6-year period, the Fort Lauderdale HOCALJ did not follow ODAR's policy of assigning claims to ALJs on a rotational basis. Consequently, four claimant representatives had over 50 percent of their caseloads with the HOCALJ, far beyond the anticipated rate under normal case rotation.

To meet our objective, we analyzed closed cases in ODAR's Case Processing and Management System (CPMS) for FY 2011 and the first 6 months of FY 2012 to identify instances where the claimant representative had at least 50 case decisions during the FY, and at least 50 percent of those decisions was made by the same ALJ. We contacted hearing offices that had potential rotation issues that met our criteria. We also met with ODAR headquarters and regional managers to learn more about their case rotation policy.⁸

RESULTS OF REVIEW

Our review of the FY 2011 and 2012 data found that four hearing offices had rotation issues throughout the period that were primarily related to their remote sites. From our interviews with hearing office managers and ALJs, we learned that the rotation issues existed for a number of reasons, including (1) ALJs were permitted to choose which remote sites to visit, (2) ALJs did not want to travel to remote sites, (3) parent hearing offices and remote sites lacked sufficient video hearing capacity, (4) claimant representatives declined video hearings even when equipment was available, and (5) ALJs were permanently stationed at remote sites or satellite offices (SO).

We also determined that the number of hearing offices with rotation issues declined over the 18-month period. Five hearing offices with rotation issues in FY 2011 did not appear in our FY 2012 data, though three additional hearing offices showed rotation issues in FY 2012. In our discussions with managers at the five hearing offices that resolved their rotation issues, we learned the primary reasons for the improvement related to (1) expanded video capacity, (2) increased management oversight, (3) changes in ALJs, and (4) reassignment of a remote site. It is possible that some of these practices could assist the hearing offices still experiencing rotation problems in FY 2012.

⁶ SSA OIG, *Congressional Response Report (CRR): Oversight of Administrative Law Judge Workload Trends* (A-12-11-01138), February 2012.

⁷ SSA OIG, *Workload Activity at Five Hearing Offices in Region IV* (A-12-07-27091), September 2007.

⁸ See Appendix A for more information about our scope and methodology.

Rotation Issues in FYs 2011 and 2012

In our review of CPMS data covering FY 2011 and the first 6 months of FY 2012, we identified rotation issues at 12 hearing offices, involving 17 ALJs and 29 claimant representatives,⁹ that met our criteria¹⁰ (see Table 1). Two of the ALJs served as the HOCALJ in their respective office. We determined that four hearing offices had rotation issues throughout the period, whereas five hearing offices appeared to resolve their issues in FY 2011, and three additional offices met our criteria in the first 6 months of FY 2012.

**Table 1: Rotation Issues Identified Using OIG Criteria¹
(FY 2011 and First 6 Months of FY 2012)**

Hearing Office	State	Region	Number of ALJs	Number of Claimant Representatives
Brooklyn ²	New York	New York	1	1
Billings ⁴	Montana	Denver	2	5
Birmingham ²	Alabama	Atlanta	1	2
Denver ⁴	Colorado	Denver	2	2
Flint ²	Michigan	Chicago	1	1
Fort Worth ⁴	Texas	Dallas	2	9
Little Rock ⁴	Arkansas	Dallas	2	2
Long Beach ²	California	San Francisco	1	1
Madison ³	Wisconsin	Chicago	1	1
Paducah ²	Kentucky	Atlanta	2	3
Reno ³	Nevada	San Francisco	1	1
Salt Lake City ³	Utah	Denver	1	1
Totals			17	29

Notes:

1. OIG Rotation Criteria – Claimant representative had at least 50 case decisions during the FY, and 50 percent of those decisions were decided by the same ALJ.
2. Identified rotation issues in FY 2011 only.
3. Identified rotation issues in FY 2012 only.
4. Identified rotation issues in FYs 2011 and 2012.

⁹ Some ALJs had rotation issues with more than one claimant representative.

¹⁰ We identified instances where the claimant representatives had at least 50 case decisions during the FY, and at least 50 percent of those decisions was decided by the same ALJ.

Rotation Issues During Both FYs

The four hearing offices with rotation issues throughout the entire 18-month period were Billings, Montana; Fort Worth, Texas; Little Rock, Arkansas; and Denver, Colorado.¹¹ We interviewed managers, ALJs, and schedulers at each hearing office to learn about the rotation issues in each office. We provided a summary of their responses in **Table 2**.

Table 2: Stated Reasons for ALJ Rotation Issues at Four Hearing Offices (Closed Cases for FY 2011 and First 6 Months of FY 2012)

Reasons for Rotation Issues	Billings	Fort Worth	Little Rock	Denver
ALJs Allowed to Choose Remote Sites	✓	✓	✓	
ALJs Prefer Not to Travel	✓	✓		
ALJs Permanently Assigned to Remote Sites/SOs ¹		✓		✓
Shortage of Video Capacity at Hearing Offices			✓	
Claimant Representatives Declining Video Hearings	✓			

Note 1: An SO is a subordinate permanent duty station aligned with a specific hearing office and administratively managed as a branch of the office. An SO normally has a limited staff, usually consisting of one or two ALJs and a few support staff.

We also found that, in all but one case, the ALJs with rotation issues had a higher allowance rate with the claimant representatives that met our criteria when compared to each ALJ's overall allowance rate.¹² While allowance rates may vary for a number of reasons, improved rotation would reduce any concerns about fairness. The most prominent reason the rotation policy was not being followed related to ALJs choosing their remote site, followed by ALJs deciding not to travel¹³ or management allowing only one ALJ to cover a particular remote location.¹⁴ Below, we provide more details on the situation in each of the four hearing offices.¹⁵

¹¹ See Appendix B for more detail on these cases.

¹² *Id.*

¹³ According to the ALJ position description, ALJs are required to travel to remote sites, the exception being reasonable accommodations approved by ODAR management for medical conditions restricting such travel.

¹⁴ ODAR executives explained that some ALJs lived at remote locations and conducted most of the hearings at those remote sites. Even though this practice violated the case rotation policy, it was justified because of travel cost savings, since the ALJs in the parent hearing office did not travel to those remote locations. However, ODAR was taking steps to stop this practice by requiring that all ALJs report to the parent hearing office or one of its seven SOs.

¹⁵ We also reviewed the three hearing offices that appeared to have rotation issues in FY 2012—Salt Lake City, Utah, Hearing Office; Reno, Nevada, Hearing Office; and Madison, Wisconsin, SO. Many of the rotation issues were similar to those cited by the four hearing offices who met our criteria during the entire 18-month period. See Appendix C for more information about the rotation issues at these three hearing offices.

Billings Hearing Office

At the time of our review, the Billings Hearing Office employed four ALJs who conducted hearings at the parent hearing office as well as five remote sites. The remote sites were as far as 492 miles from Billings. Another two ALJs worked at the SO in Boise, Idaho. We found rotation issues involving two ALJs and three claimant representatives related to hearings at the Billings Hearing Office as well as the remote sites in Helena and Missoula (see Figure 1).

Figure 1: Helena and Missoula, Montana, Remote Sites



We identified the following rotation issues in the first 6 months of FY 2012.¹⁶

- One ALJ decided about 67 percent of claimant representatives' cases at the Billings Hearing Office.
- One ALJ decided about 58 percent of a claimant representative's cases at the Helena remote site.
- One ALJ decided about 66 percent of a claimant representative's cases at the Missoula remote site.

Hearing office managers explained that the high amount of ALJ travel to remote sites in other parts of Montana left fewer ALJs in the Billings area to handle the local cases, most likely causing the rotation problem at the parent hearing office. They also stated that ALJs were allowed to choose which remote site they wanted to visit. Consequently, ALJs visited the remote

¹⁶ See Appendix B for more detail on these cases.

sites based on personal preference and did not rotate from site to site, causing rotation problems at the remote sites.

Hearing office managers explained that some claimant representatives had the majority of their business in the same area served by the remote sites. Since only one or two ALJs were traveling to a preferred remote site, a high percentage of claimant representative cases would go to a single ALJ. While both remote sites had video equipment, which would have allowed more ALJs to hold hearings at these locations, a Billings Hearing Office manager said that some claimant representatives may have declined video hearings because they knew which ALJ went to each remote site, as well as the allowance rates for every ALJ in the office. In FY 2011, only 3 percent of the hearings in the Billings Hearing Office was conducted using video equipment, whereas the national average for video hearings was about 20 percent. In a June 2012 report, we noted "...the Agency needs to focus its efforts on ensuring the public and its employees consider the advantages of video hearings."¹⁷ In addition to video hearings allowing better rotation of hearing cases, the use of this equipment would also have provided the Agency with savings related to ALJ travel time and costs.¹⁸

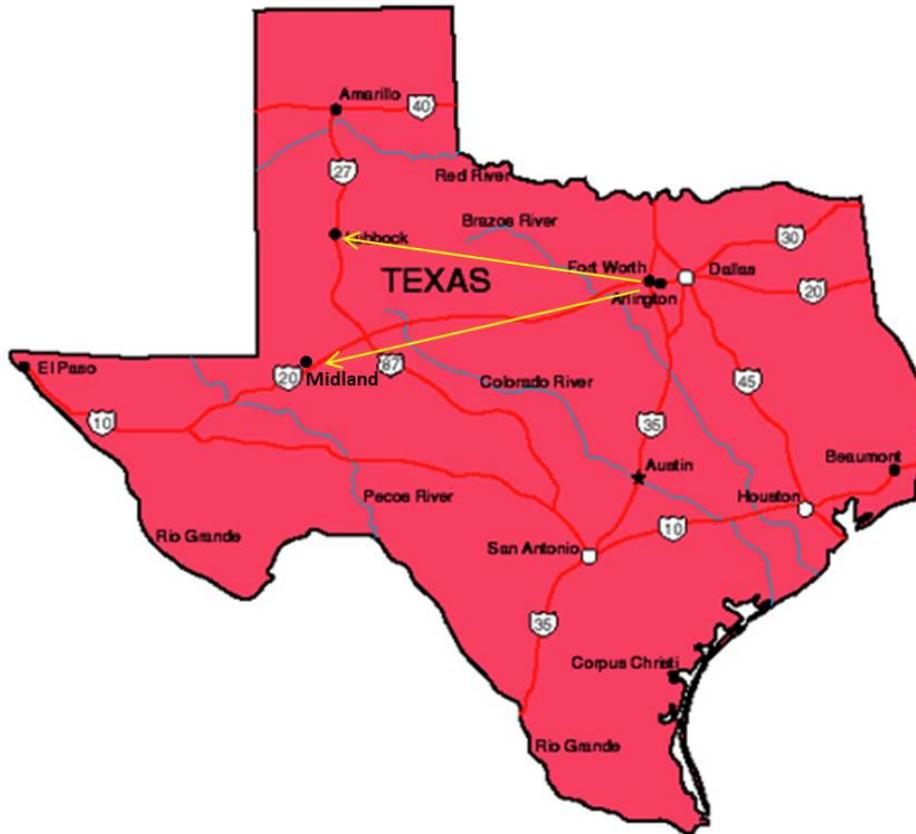
Fort Worth Hearing Office

At the time of our review, the Fort Worth Hearing Office employed nine ALJs responsible for hearings at the parent hearing office and six remote sites. We found case rotation issues among two ALJs and four claimant representatives at remote sites in Lubbock and Midland, Texas (see Figure 2).

¹⁷ SSA OIG, *CRR: Current and Expanded Use of Video Hearings* (A-05-12-21287), June 2012, p. 15.

¹⁸ *Id.*, p. 3.

Figure 2: Lubbock and Midland, Texas, Remote Sites



We identified the following rotation issues in the first 6 months of FY 2012.¹⁹

- One ALJ decided about 64 percent of a claimant representative's cases and about 54 percent of another representative's cases at the Lubbock remote site.
- One ALJ decided 100 percent of a claimant representative's cases and about 69 percent of another representative's cases at the Midland remote site.

In our discussions with hearing office management, we learned that ALJs were allowed to choose which remote sites they visited. Management explained that one ALJ often visited the Lubbock, Texas, remote site (319 miles from Fort Worth) because he preferred in-person hearings and was willing to travel compared to the other ALJs in the office who did not want to travel so far. In addition, one ALJ was permanently stationed by management at the Midland, Texas, remote site during our audit period.

¹⁹ See Appendix B for more detail on these cases.

Hearing office managers stated that although having one ALJ decide most of the cases at the Lubbock and Midland remote sites may have bypassed rotation policy, it was done for budgetary reasons since it led to savings in ALJ time and travel costs. We also learned that both the Lubbock and Midland remote sites had video equipment, which would have allowed other ALJs to hold hearings with claimants in these remote areas.²⁰

ODAR management designated the Midland, Texas, remote site as an SO after we conducted our audit and the ALJ's duty station was changed effective December 30, 2012. According to ODAR, support staff was not assigned to the Midland SO as part of the change. ODAR management stated that, as resources and scheduling coordination allows, the ALJ stationed in Midland will be conducting videos with claimants in other parts of Texas, while ALJs from the Fort Worth Hearing Office will conduct video hearings with claimant representatives served by the Midland SO. In this way, greater case rotation will be possible.

Little Rock Hearing Office

At the time of our review, the Little Rock Hearing office employed 12 ALJs responsible for conducting hearings at the parent hearing office as well as 5 remote sites. We found rotation issues with two ALJs and two claimant representatives at the Batesville and El Dorado, Arkansas, remote sites (see Figure 3).

Figure 3: Batesville and El Dorado, Arkansas, Remote Sites



²⁰ In FY 2011, about 20 percent of the Fort Worth Hearing Office's hearings was conducted via video equipment.

We identified the following rotation issues in the first 6 months of FY 2011.²¹

- One ALJ decided 86 percent of a claimant representative's cases at the Batesville remote site.
- One ALJ decided about 51 percent of a claimant representative's cases at the El Dorado remote site.

During our interviews, we learned that hearing office managers allowed the ALJs to choose between holding video hearings or traveling to remote sites. ALJs were also allowed to choose two of the five remote sites to visit and alternate between those sites every 6 months. Since claimants near the remote sites were served by local claimant representatives, the ALJs traveling to these remote sites also experienced limited case rotation. Hearing office managers stated that they changed the remote site policy in FY 2012 from 6-month details at two remote sites to 4-month details among all the remote sites.

Hearing office managers explained that they wanted to conduct more video hearings at the remote sites, but the Little Rock Hearing Office had only 4 hearing rooms for the 12 ALJs in the office for both in-person and video hearings. The managers stated ODAR were planning to add two more hearing rooms and additional video capacity. Even with this video capacity issue, about 20 percent of Little Rock's FY 2011 hearings was conducted as video hearings, a rate that was equal to the national average.

Denver Hearing Office

At the time of our review, the Denver Hearing Office employed nine ALJs responsible for hearings at the hearing office as well as two SOs, two claimant-only video (COV) sites, and one remote site. During the first 6 months of FY 2012, we found that one ALJ decided about 79 percent of a claimant representative's cases at the Casper, Wyoming, SO.²²

In our discussions with hearing office managers, we learned that one ALJ was permanently stationed at the Casper, Wyoming, SO and was assigned the majority of cases at the remote sites in Wyoming. According to ODAR's June 2012 listing of remote sites, the Casper SO served two remote sites—a COV site in Cody, Wyoming, and a shared COV site with the Sheridan, Wyoming, Field Office. While the situation led to rotation issues, it appeared that the remote sites with video capabilities would allow other ALJs in the Denver Hearing Office to assist with the Wyoming workload.

²¹ See Appendix B for more detail on these cases.

²² Id.

Rotation Issues Resolved in FY 2012

We interviewed hearing office managers and ALJs at the five hearing offices that had rotation issues in FY 2011, but not in FY 2012, to learn how their rotation issues were resolved. The reasons cited included (1) greater video hearing capacity, (2) increased management oversight of case rotation, (3) changes in ALJ staffing, and (4) remote site realignment (see Table 3).

Table 3: Resolution of Rotation Issues at Five Hearing Offices in FY 2012

Actions Taken to Resolve Rotation Issues	Birmingham	Paducah	Flint	Brooklyn	Long Beach
Enhanced Video Capacity	✓	✓			✓
Increased Management Oversight of Case Rotation	✓		✓		
Changes in ALJ Staffing		✓		✓	
Reassigned Remote Site			✓		

Enhanced Video Capacity

Managers at the Birmingham, Long Beach, and Paducah Hearing Offices said that adding more video hearing capacity had helped reduce their rotation issues. According to Birmingham Hearing Office managers, during FY 2011 one ALJ traveled to Tuscaloosa, Alabama, and decided most of the cases at the remote site where two claimant representatives represented most of the claimants. By adding video capacity at the Birmingham Hearing Office, management was able to rotate the Tuscaloosa cases between all of the ALJs in the Office.

In the case of the Paducah Hearing Office, the hearing office shared a remote site at a Federal courthouse in Owensboro, Kentucky. This remote site was about 130 miles from the Paducah Hearing Office. Because of scheduling conflicts, staff could only schedule hearings 1 day a week, rather than the minimum 3-day travel docket required. In addition, hearing office managers decided to assign all of the Owensboro cases to one ALJ who lived near the site. Hearing office managers stated they bypassed rotation since it saved time and money for that ALJ to hold most of the hearings at that site. In FY 2011, the ALJ decided about 83 percent of one claimant representative's cases and about 63 percent of a second claimant representative. In January 2012, SSA opened a new COV site at its Owensboro Field Office and the Paducah Hearing Office began holding video hearings from the site, thereby increasing the ALJ coverage of the Owensboro area.

In the case of the Long Beach Hearing Office, hearing office managers said that adding two video hearing rooms to the remote site in Palmdale, California, allowed better case rotation. In FY 2011, not all of the ALJs were willing to travel 86 miles to the Palmdale remote site, but cases were rotated more in FY 2012 because a greater volume of video hearings were being held at the site.

Increased Management Oversight

Managers at the Birmingham and Flint Hearing Offices stated they eliminated their rotation issues when they began emphasizing proper case rotation to their staff and monitoring case rotation using CPMS management information reports. For example, one hearing office manager said she used the CPMS' Disability Adjudication Reporting Tools, which allow managers to view specific ALJ case assignments by claimant representative. Hearing office managers also stated their regional offices and ODAR headquarters closely monitored case rotation in their offices and would notify managers if rotation issues arose.

Changes in ALJ Staffing

In FY 2011, an ALJ at the Brooklyn Hearing Office decided 50 percent of one claimant representative's cases. Our review of CPMS data found that the Brooklyn Hearing Office had 11 ALJs who heard cases with 381 claimant representatives in FY 2011. Under normal rotation, the ALJ would have decided about 9 percent of the representative's cases. We learned this ALJ left the Agency, and the rotation problem did not appear again in FY 2012 CPMS data. The hearing office managers were new and could not explain the rotation problems in FY 2011.

In another case, an ALJ at the Paducah Hearing Office decided about 57 percent of the cases for one claimant representative in FY 2011. The HOCALJ explained that she recused herself from hearing this claimant representative's cases and therefore more of these cases were available to other ALJs in the office. The Paducah Hearing Office had about five ALJs during our audit period, though the hearing office manager explained that the office had difficulty retaining ALJs. She explained that they filled a number of ALJ positions in FY 2012, thereby decreasing the frequency of a single claimant representative before a single ALJ.

Reassigned Remote Site

In FY 2011, the Flint Hearing Office serviced the remote site in Alpena, Michigan. According to hearing office managers, one ALJ heard the majority of cases in Alpena because the other ALJs did not want to travel 178 miles to the site. In the spring of 2011, ODAR opened a new hearing office in Mt. Pleasant, Michigan, and realigned the Alpena remote site to the new office. The Flint Hearing Office held hearings in Alpena until June 2011, after which the rotation of cases improved.

CONCLUSIONS

SSA has reduced the number of ongoing rotation issues among its ALJs and claimant representatives. However, we found rotation issues at seven hearing offices in the first 6 months of FY 2012, including four hearing offices that also had rotation issues in FY 2011. Many of the issues at these hearing offices related to ALJ preferences on travel locations, ALJ willingness to travel, and the inability to hold video hearings. In other cases, the organizational structure, such as permanent assignments to remote locations, came with built-in rotation issues. In terms of potential solutions, we found that expanded use of video technology as well as greater management oversight solved rotation issues at a number of locations. To the extent claimant

representatives are reluctant to use video equipment, we support continued outreach efforts at those sites to encourage greater use of video technology among the claimant representatives.

RECOMMENDATIONS

To improve the rotation of hearing cases, we recommend the Agency:

1. Continue monitoring the seven hearing offices with rotation issues in the first 6 months of FY 2012 to ensure the proper resolution of rotation issues.
2. Remind hearing office managers that ALJ coverage of remote sites should be consistent with rotation policy and involve all ALJs to the extent possible.

AGENCY COMMENTS

The Agency agreed with our recommendations (see Appendix D).

APPENDICES

Appendix A – SCOPE AND METHODOLOGY

To accomplish our objective, we:

- Reviewed prior Social Security Administration (SSA) Office of the Inspector General reports.
- Reviewed SSA’s Program Operations Manual System; Hearings, Appeals and Litigation Law Manual; and Office of Disability Adjudication and Review’s (ODAR) Chief Administrative Law Judge (ALJ) memorandum on case assignment and rotation.
- Analyzed Case Processing and Management System (CPMS) closed cases for Fiscal Years (FY) 2011 and the first 6 months of FY 2012 to identify cases where the claimant representative had at least 50 decisions during the FY, and at least 50 percent of those decisions was made by the same ALJ.
- Interviewed managers and staff at ODAR’s headquarters to discuss rotation policies and procedures.
- Interviewed ODAR regional managers in the Dallas, Denver, and San Francisco Regions.
- Interviewed hearing office managers at the 12 hearing offices that met our rotation criteria (see Appendix B for more information about our hearing office selection criteria). In the case of three hearing offices—Billings, Fort Worth, and Little Rock—we also interviewed ALJs and staff.

We found that the CPMS FYs 2011 and 2012 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 March through October 2012 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.

Appendix B – HEARING OFFICE SELECTION CRITERIA

We analyzed the Case Processing and Management System (CPMS) closed claims database for Fiscal Years (FY) 2011 and the first 6 months of FY 2012 to identify cases where the claimant representative had at least 50 cases, and at least 50 percent of those cases was decided by the same administrative law judge (ALJ).¹

While performing our data analysis, we used the following methodology.

1. Summarized the FY 2011 and 2012 closed claims data and further summarized by ALJ and claimant representative.
2. Extracted ALJs with at least 200 dispositions.
3. Extracted claimant representatives with at least 50 total dispositions during the FY.
4. Calculated the claimant representative-to-ALJ ratio² for all ALJs and claimant representatives.
5. Selected the conditions where the claimant representative-to-ALJ ratio was 50 percent or higher for the FY.
6. Sorted on claimant representative-to-ALJ ratio from highest to lowest.

Below, we provide additional information on the ALJs in four hearing offices that had rotation issues that met our criteria during both FY 2011 and the first 6 months of FY 2012.

¹ We did not include hearings offices designed for one or two ALJs. ODA identified four offices meeting this criteria; Anchorage, Alaska; Honolulu, Hawaii; Mayaguez, Puerto Rico; and Ponce, Puerto Rico.

² This ratio is determined by dividing the claimant representative's cases decided by an ALJ by the claimant representative's total cases.

Two ALJs in the Billings, Montana, Hearing Office decided over 50 percent of the cases for four claimant representatives. A comparison of their ALJ allowance rates with the claimant representatives and their overall allowance rates in FYs 2011 and the first 6 months of FY 2012 are illustrated below (see Table B-1). In all of the cases but one, the ALJs had a higher allowance rate with the identified claimant representative when compared to the ALJ’s overall allowance rate.

Table B-1: Billings Hearing Office Rotation Issues – FY 2011 and the First 6 Months of FY 2012

ALJ	Claimant Representative	FY	Number of Claimant Representative’s Cases Decided by ALJ	Percent of Claimant Representative’s Cases Decided by ALJ	Percent of ALJ’s Decided Cases with Claimant Representative	ALJ Allowance Rate with Claimant Representative (Percent)	ALJ Overall Allowance Rate (Percent)
ALJ 1	Claimant Representative 1	2012	40	66	12	85	69
		2011	80	73	14	81	71
ALJ 1	Claimant Representative 2	2012	30	58	9	73	69
		2011	81	88	14	75	71
ALJ 2	Claimant Representative 3	2012	46	67	16	46	38
		2011	na	na	na	na	na
ALJ 2	Claimant Representative 4	2012	na	na	na	na	na
		2011	59	53	10	34	37

na = We did not identify any situations matching our criteria.

Two ALJs at the Fort Worth, Texas, Hearing Office decided over 50 percent of the cases for five different claimant representatives (see Table B-2). ALJ 1 decided 100 percent of claimant representative 1’s cases in the first 6 months of FY 2012, the highest rate among the ALJs we reviewed. In all of the cases, the ALJs had a higher allowance rate with the identified claimant representative when compared to the ALJ’s overall allowance rate.

Table B-2: Fort Worth Hearing Office Rotation Issues – FYs 2011 and the First 6 Months of FY 2012

ALJ	Claimant Representative	FY	Number of Claimant Representative’s Cases Decided by ALJ	Percent of Claimant Representative’s Cases Decided by ALJ	Percent of ALJ’s Decided Cases with Claimant Representative	ALJ Allowance Rate with Claimant Representative (Percent)	ALJ Overall Allowance Rate (Percent)
ALJ 1	Claimant Representative 1	2012	71	100	20	73	52
		2011	154	83	23	75	55
ALJ 1	Claimant Representative 2	2012	62	69	18	65	52
		2011	109	87	16	65	55
ALJ 2	Claimant Representative 3	2012	60	64	15	72	57
		2011	92	58	11	64	58
ALJ 2	Claimant Representative 4	2012	34	54	9	68	57
		2011	na	na	na	na	na
ALJ 2	Claimant Representative 5	2012	na	na	na	na	na
		2011	88	85	10	84	58

na = We did not identify any situations matching our criteria.

Two ALJs in the Little Rock, Arkansas, Hearing Office decided over 50 percent of two claimant representative cases in FYs 2011 and the first 6 months of FY 2012 (see Table B-3). ALJ 1 decided 70 percent of Claimant Representative 1’s cases in FY 2011, but it increased to 86 percent in FY 2012. In all of the cases, the ALJs had a higher allowance rate with the identified claimant representative when compared to the ALJ’s overall allowance rate.

Table B-3: Little Rock Hearing Office Rotation Issues – FYs 2011 and the First 6 Months of FY 2012

ALJ	Claimant Representative	FY	Number of Claimant Representative’s Cases Decided by ALJ	Percent of Claimant Representative’s Cases Decided by ALJ	Percent of ALJ’s Decided Cases with Claimant Representative	ALJ Allowance Rate with Claimant Representative (Percent)	ALJ Overall Allowance Rate (Percent)
ALJ 1	Claimant Representative 1	2012	43	86	10	88	78
		2011	74	70	8	97	84
ALJ 2	Claimant Representative 2	2012	46	51	14	76	62
		2011	124	56	13	69	65

Two ALJs in the Denver, Colorado, Hearing Office decided over 50 percent of the cases for two claimant representatives in FY 2011 (see Table B-4). ALJ 1 also had rotation issues with the same claimant representative in the first 6 months of FY 2012. However, from our interviews with Denver Hearing Office managers, we learned that the ALJ transferred to a different hearing office sometime in FY 2012.³ In all of the cases, the ALJs had a higher allowance rate with the identified claimant representative when compared to the ALJ’s overall allowance rate.

Table B-4: Denver Hearing Office Rotation Issues – FYs 2011 and the First 6 Months of FY 2012

ALJ	Claimant Representative	FY	Number of Claimant Representative’s Cases Decided by ALJ	Percent of Claimant Representative’s Cases Decided by ALJ	Percent of ALJ’s Decided Cases with Claimant Representative	ALJ Allowance Rate with Claimant Representative (Percent)	ALJ Overall Allowance Rate (Percent)
ALJ 1	Claimant Representative 1	2012	83	79	42	49	41
		2011	217	86	39	50	46
ALJ 2	Claimant Representative 2	2012	na	na	na	na	na
		2011	68	58	13	46	41

na = We did not identify any situations matching our criteria.

³ The CPMS data we analyzed showed that ALJ 1 had rotation issues with claimant representative 1 through the first 6 months of FY 2012.

Appendix C – NEW ROTATION ISSUES IN FISCAL YEAR 2012

In our review of the first 6 months of Fiscal Year (FY) 2012 Case Processing and Management System closed cases, we identified 3 additional hearing offices where the claimant representative had at least 50 decisions, and at least 50 percent of those decisions was made by the same administrative law judge (ALJ). We contacted the hearing office managers to discuss the rotation issues at these hearing offices. The managers cited the following reasons for the rotation issues: (1) ALJ's inability to travel, (2) claimant representative declining video hearings, (3) a new office with only one ALJ, (4) ALJs preference for in-person hearings, and (5) new ALJs lacking video equipment training.

Salt Lake City Hearing Office

Hearing office managers stated that medical reasons reduced the number of ALJs in the hearing office who could travel to the St. George remote site, thereby limiting the ability to rotate cases at that site. In addition, the site had one claimant representative who represented most of the claimants served by the remote site and preferred in-person hearings. We found that this ALJ decided about 58 percent of the cases with this one claimant representative.

Reno Hearing Office

One claimant representative had 56 percent of his cases with an ALJ in the parent hearing office. However, when we spoke with the San Francisco Regional Chief ALJ (RCALJ), we learned that the Reno Hearing Office opened in September 2011. Initially, only one ALJ was assigned to Reno, and that ALJ conducted all of the hearings until additional ALJs were hired. The RCALJ also explained that the Reno area had a small claimant representative community that handled the cases for the majority of the claimants. The RCALJ expected case rotation would improve with the additional ALJs in the office.

Madison Hearing Office

According to managers in the Madison, Wisconsin, Hearing Office, the rotation issues related to a claimant-only video (COV) site in La Crosse, Wisconsin. Some ALJs preferred to conduct in-person hearings at remote sites or the ALJs were newly hired and not familiar with conducting hearings using video technology. Consequently, the Hearing Office Chief ALJ (HOCALJ) conducted most of the video hearings at the La Crosse, Wisconsin, COV site. In one case, the HOCALJ decided about 56 percent of cases represented by one claimant representative. To resolve this issue, the HOCALJ said he was providing video hearing training to the newer ALJs and encouraging expanded ALJ coverage of the COV.

Appendix D – AGENCY COMMENTS



SOCIAL SECURITY

MEMORANDUM

Date: March 5, 2013 **Refer To:** SIJ-3

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

From: Kate Thornton /s/
Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, “Hearing Office Case Rotation Among Administrative Law Judges” (A-12-12-11274)—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 Gary S. Hatcher at (410) 965-0680.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
“HEARING OFFICE CASE ROTATION AMONG ADMINISTRATIVE LAW JUDGES”
(A-12-12-11274)**

Recommendation 1

Continue monitoring the seven hearing offices with rotation issues in the first 6 months of FY 2012 to ensure the proper resolution of rotation issues.

Response

We agree.

Recommendation 2

Remind hearing office managers that ALJ coverage of remote sites should be consistent with rotation policy and involve all ALJs to the extent possible.

Response

We agree.

Appendix E – MAJOR CONTRIBUTORS

Walter Bayer, Director, Chicago Audit Division

Nicholas Milanek, Audit Manager, Crystal City Audit Office

Faisal Khan, Auditor-in-Charge

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