



Office *of the* Inspector General

SOCIAL SECURITY ADMINISTRATION

*Audit Report*

Decision-writing Backlog in the  
Office of Hearings Operations

*A-12-18-50579 | March 2019*

**MEMORANDUM**

**Date:** March 29, 2019

**Refer To:**

**To:** The Commissioner

**From:** Inspector General

**Subject:** Decision-writing Backlog in the Office of Hearings Operations (A-12-18-50579)

The attached final report presents the results of the Office of Audit's review. The objective was to assess the Social Security Administration's hearings decision-writing backlog and the Agency's actions to address it.

If you wish to discuss the final report, please call me or have your staff contact Rona Lawson, Assistant Inspector General for Audit, 410-965-9700.



Gail S. Ennis

Attachment

# Decision-writing Backlog in the Office of Hearings Operations

## A-12-18-50579



March 2019

Office of Audit Report Summary

### Objective

To assess the Social Security Administration's (SSA) hearings decision-writing backlog and the Agency's actions to address it.

### Background

The Office of Hearings Operations (OHO) administers SSA's hearings program. Since 2015, the number of cases waiting a written hearing decision has increased. At the end of Fiscal Year (FY) 2017, 75,084 cases were waiting for written decisions, almost 4 times the number than at the end of FYs 2011 and 2012. Since FY 2017, the number of pending cases has decreased, with 51,754 cases waiting for written decisions at the end of January 2019 (a 31-percent decrease since the FY 2017 peak).

SSA established national and regional Case Assistance Centers to help hearing offices prepare cases and write hearing decisions. At the end of FY 2018, OHO had decision-writing units in five National Case Assistance Centers and every Regional Case Assistance Center except the Kansas City Region. SSA also established National Hearing Centers that use video technology to hold hearings to assist backlogged offices.

In FY 2018, OHO transferred over 125,000 cases for decision-writing assistance.

### Findings

Similar factors contributed to the decision-writing backlogs in hearing offices in all regions. Interviewees said the main cause of the decision-writing backlog was staffing imbalances. Interviewees also discussed others reasons for the decision-writing backlog, including issues that affected decision writer productivity. Additionally, they described actions that had worked to address writing backlogs and offered suggestions on what would help them in the future.

Although the decision-writing backlog peaked in FY 2017, it had decreased by 31 percent as of January 2019. Therefore, we did not make any recommendations. Also, we did not include specific recommendations for issues identified in this report that SSA is working on as part of its Compassionate and REsponsive Service plan. Additionally, we did not include specific recommendations that SSA is still addressing from prior Office of the Inspector General reports.

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## ABBREVIATIONS

ALJ	Administrative Law Judge
CARES	Compassionate And REsponsive Service
C.F.R.	Code of Federal Regulations
DGS	Document Generation System
DW	Decision Writer
DWPI	DW Productivity Index
eBB	Electronic Bench Book
FIT	Findings Integrated Templates
FY	Fiscal Year
GAO	Government Accountability Office
HALLEX	Hearings Appeals and Litigation Law Manual
HIT	Health Information Technology
NAT	National Adjudication Team
OHO	Office of Hearings Operations
OIG	Office of the Inspector General
SSA	Social Security Administration

## OBJECTIVE

Our objective was to assess the Social Security Administration's (SSA) hearings decision-writing backlog and the Agency's actions to address it.

## BACKGROUND

Applicants have the right to appeal any decision SSA makes on whether they are entitled to Social Security benefits or eligible for Supplemental Security Income payments. The Office of Hearings Operations (OHO) administers SSA's hearings program. Administrative law judges (ALJ) review evidence presented by applicants and/or medical and vocational experts, including testimony presented at hearings, and make independent decisions to allow (in full or in part), deny, or dismiss applicants' disability claims.

Decision writers (DW), who are generally attorneys or paralegals, write most ALJ decisions. ALJs instruct DWs on the content needed in each decision. ALJs should provide clear directions on the rationale supporting the resolution of each issue necessary to ultimately decide the claim. The ALJ's instructions must cite the pertinent evidence or testimony and any observations or comments regarding symptom evaluation.<sup>1</sup> DWs should provide an adequate draft decision that is factually correct; complies with the drafting instructions; is prepared timely; is policy compliant; properly analyzes the legal issue of the claim; has proper spelling, punctuation, and grammar; and includes an adequate rationale for each finding.

ALJs issue their decisions at hearing offices and National Hearing Centers nationwide. In addition, SSA established national and regional Case Assistance Centers to help hearing offices prepare cases and write hearing decisions.<sup>2</sup> At the end of Fiscal Year (FY) 2018, OHO had decision-writing units in five National Case Assistance Centers<sup>3</sup> and every Regional Case Assistance Center, except the Kansas City Region. SSA had also established five National Hearing Centers,<sup>4</sup> which use video technology to hold hearings to assist backlogged offices.

Between 2015 and 2017, the number of cases waiting written decisions had increased. At the end of FY 2017, 75,084 cases were waiting for written decisions, almost 4 times the number than at the end of FYs 2011 and 2012, as shown in Figure 1. Since FY 2017, pending decisions had decreased 31 percent, with 51,754 cases waiting for written decisions at the end of January 2019.

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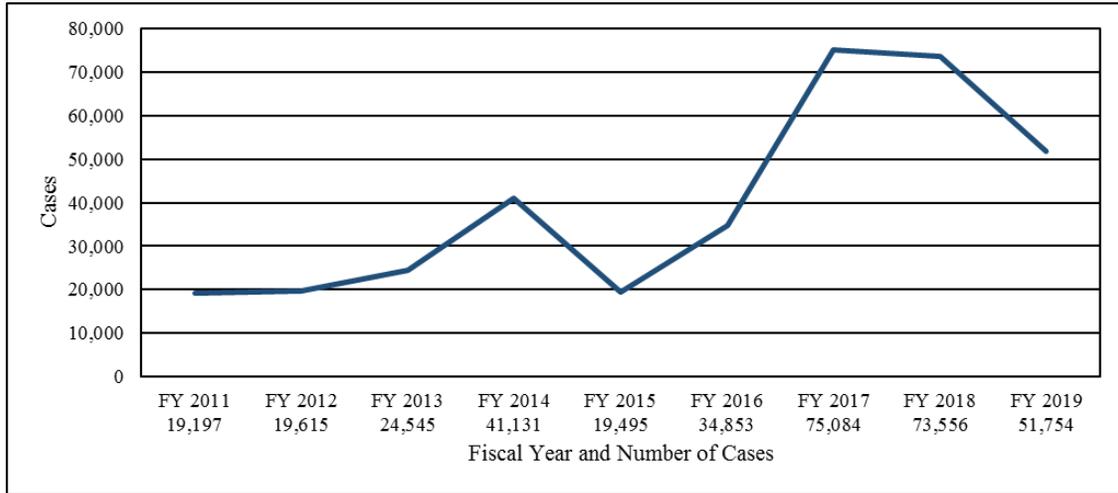
<sup>1</sup> SSA, *HALLEX*, vol. I, ch. I-1-2, sec. I-2-8-20 (March 10, 2016).

<sup>2</sup> The Agency established the first case assistance center in FY 2004.

<sup>3</sup> The National Case Assistance Centers are in Baltimore, Maryland; Falls Church, Virginia; Richmond, California; St. Louis, Missouri; and Louisville, Kentucky.

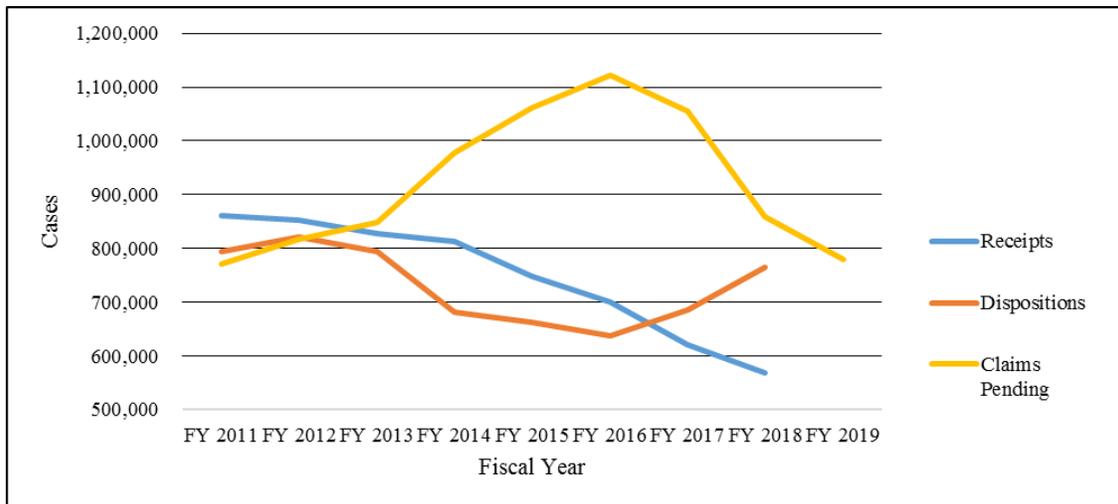
<sup>4</sup> The National Hearing Centers are in Albuquerque, New Mexico; Baltimore, Maryland; Falls Church, Virginia; Chicago, Illinois; and St. Louis, Missouri. In FY 2016, OHO paired National and Regional Case Assistance Centers with a smaller universe of hearing offices and National Hearing Centers to build teams in a "Virtual Hallway." In FY 2017, SSA piloted the use of collaborative technologies (such as video conferencing) to improve support staff efficiency and information sharing between offices. SSA, *2017 Updated CARES and Anomaly Plan*, p. 8.

**Figure 1: Cases Pending Decision-writing – National  
FYs 2011 Through 2019<sup>5</sup>**



Receipts of new hearing requests had steadily decreased, dispositions had increased, and the overall backlog of pending claims had decreased since FY 2016, as shown in Figure 2.

**Figure 2: OHO Receipts, Dispositions, and Claims Pending  
FYs 2011 Through 2019<sup>6</sup>**



<sup>5</sup> FY 2019 was through January 2019.

<sup>6</sup> Claims pending was through January 2019.

We analyzed data from OHO workload management systems and management information reports as well as relevant SSA policies, procedures, actions, initiatives, strategies, future plans, and resource projections. We conducted 76 interviews with 102 individuals,<sup>7</sup> including

- managers in regional and hearing offices,
- attorney advisers and senior attorney advisers, and
- paralegal specialists.

These individuals were in (1) 14 hearing offices in the Atlanta, Chicago, Dallas, Philadelphia, and San Francisco Regions, as shown in Table B–1, and (2) six regional offices in Atlanta, Boston, Chicago, Dallas, New York, and San Francisco. See Appendix A for descriptions of various hearing office positions. We included hearing offices that had a history of cases waiting for written decisions.

We also interviewed five individuals in National and Regional Case Assistance Centers to obtain additional information on the business processes in those offices. These individuals were in (1) National Case Assistance Centers in St. Louis and Falls Church and (2) Regional Case Assistance Centers in Detroit and Phoenix. We provided our preliminary results to OHO management and incorporated their feedback, where appropriate. For more information on our scope and methodology, see Appendix B.

## RESULTS OF REVIEW

Similar factors contributed to the decision-writing backlog in hearing offices in all regions. Although the decision-writing backlog peaked in FY 2017, it had decreased by 31 percent as of January 2019. Interviewees said the main cause of the decision-writing backlog was staffing imbalances. Interviewees also discussed others reasons for the decision-writing backlog, including issues that affected DW productivity. Additionally, they described actions that had worked to address writing backlogs and offered suggestions on what would help them in the future. See Appendix C for a complete list of the top interview responses.

### Reasons for Decision-writing Backlogs

Hearing offices with decision-writing backlogs reported issues with staffing imbalances, increased case file sizes, ALJ instructions to DWs, changes in decision notice requirements, ALJ productivity, addressing problems in cases, and duplicate medical records in files.

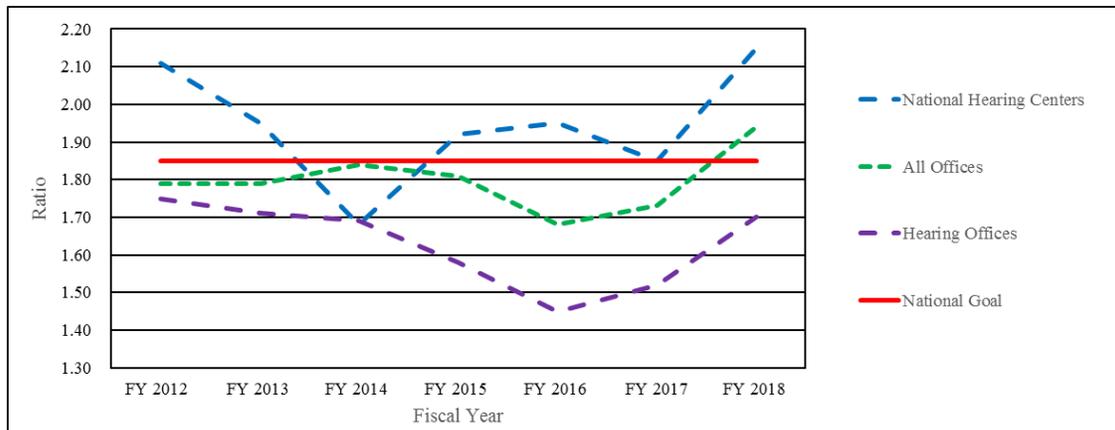
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<sup>7</sup> We conducted group interviews with managers and individual interviews with decision writers, so the 76 interviews included input from 102 individuals.

## Staffing Imbalances

In 54 interviews, individuals identified insufficient numbers of DWs as the top factor for decision-writing backlogs. SSA's goal was to have 1.85 DWs per ALJ. As shown in Figure 3, OHO was close to this goal nationwide in FYs 2012 through 2018. However, the ratio of DWs to ALJs in hearing offices was below the Agency's goal during the same period.

**Figure 3: Ratio of DWs to ALJs  
FYs 2012 Through 2018**



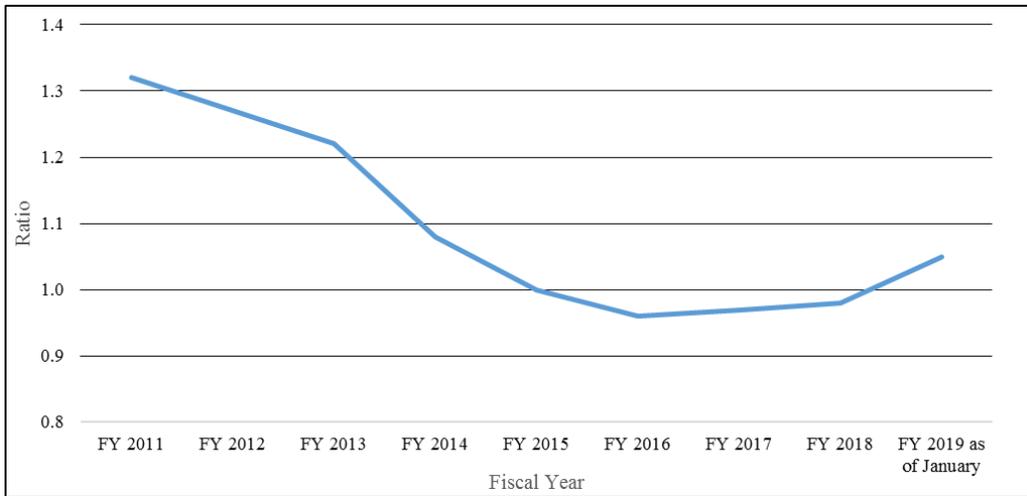
On average, in FY 2018, ALJs completed about two cases a day, while DWs completed about one case a day. Many interviewees said their offices had hired ALJs but not DWs, so they were below the ideal ratio and could not keep up with production. See Appendix D for the staffing ratios and other information about the offices in our review.

Although many of the offices in our review had DW shortages, the number of DWs overall remained fairly even until spikes in new hires in 2017 and 2018. At the end of FY 2018, OHO had over 400 more DWs than in FY 2016, as shown in Table 1. As these new DWs were trained and became more productive, they helped address the decision-writing backlog. As shown in Figure 4, DW productivity at the national level (measured in decisions per DW per day) remained stable since FY 2014, even with the additional hires; so OHO was able to write more cases.

**Table 1: Number of ALJ and DWs  
FYs 2011 Through 2018<sup>8</sup>**

FY	ALJs	DWs								
		Hearing Offices		National Hearing Centers		Case Assistance Centers				Total
						Regional	National	All		
2012	1,587	2,496	89%	167	6%	94	61	155	6%	2,818
2013	1,515	2,386	89%	159	6%	83	58	141	5%	2,686
2014	1,473	2,256	84%	145	5%	118	176	294	11%	2,695
2015	1,558	2,214	79%	158	6%	139	299	438	16%	2,810
2016	1,597	2,047	77%	163	6%	167	294	461	17%	2,671
2017	1,641	2,185	77%	181	6%	185	280	465	16%	2,831
2018	1,611	2,413	77%	156	5%	196	350	546	18%	3,115

**Figure 4: Nation – Decisions per DW per Day  
FYs 2011 Through 2019<sup>9</sup>**



<sup>8</sup> SSA, Bi-Weekly Office of Hearing Operations Staffing Reports. Some percentages do not add because of rounding.

<sup>9</sup> SSA, Case Processing Management System, Caseload Analysis Reports. FY 2019 was through January 2019.

Our 2005 report found that hearing office staffing ratios may have been a good indicator of hearing office performance, especially in hearing offices with low staffing ratios, and OHO could improve its productivity if it based its staffing allocations on hearing office staffing ratios.<sup>10</sup> In our 2017 audit, SSA agreed with our recommendation to consider OHO staffing ratio goals when hiring DWs and support staff in hearing offices.<sup>11</sup> Between FYs 2016 and 2018, the Agency increased the number of DWs nationally from 2,671 to 3,115, as shown in Table 1. These additional DW hires raised the national ratio of ALJs to DWs above the national goal of 1:1.85 in FY 2018, as shown in Figure 3. Also, in 2017, SSA updated its *Compassionate and REsponsive Service* (CARES) plan to include initiatives related to staffing.<sup>12</sup>

### Case Transfers for Assistance

In 21 interviews, individuals stated transferring cases to have decisions written by other offices helped address backlogs. In FY 2018, OHO transferred over 125,000 cases between hearing offices for decision-writing assistance, as shown in Table 2. However, several managers stated they had to spend time each week screening cases that met the specific criteria for assistance transfers. Then, they spent more time reviewing the cases to ensure they were complete upon their return. They reported the assisting office often had strict criteria for taking cases, including limiting the case file size and accepting only electronically prepared instructions or the simpler cases to write.

**Table 2: Number of Cases Transferred for Writing Assistance**

FY	Cases Transferred
2011	56,238
2012	63,031
2013	65,859
2014	62,414
2015	100,702
2016	117,660
2017	124,009
2018	125,205

<sup>10</sup> SSA, OIG, *The Effects of Staffing on Hearing Office Performance*, A-12-04-14098 (March 2005).

<sup>11</sup> SSA, OIG, *Factors Related to Decreased Productivity*, A-12-18-50289 (September 2017).

<sup>12</sup> SSA, *2017 Updated CARES and Anomaly Plan*, pp. 10 and 11. SSA initially created the CARES plan in January 2016 to help address the growing hearings backlog. The CARES plan provides a framework of initiatives designed to reduce pending hearings and wait times. SSA, *Leading the Hearings and Appeals Process into the Future, A Plan for Compassionate and REsponsive Service* (January 13, 2016). SSA updated the CARES plan in 2017 to build on the initiatives in the 2016 plan, incorporate lessons learned, and introduce new initiatives.

OHO stated its guidance for case assistance was to only transfer fully electronic cases to minimize possible loss of personally identifiable information and provide clear, concise, and legible writing instructions. Hearing offices usually do not transfer critical and dire-need cases, as they require expeditious processing. SSA generally limits cases transferred for decision-writing assistance to

- fully electronic disability cases;
- noncritical cases;
- requests for hearing-termination;
- regular Appeals Council remands;
- termination Appeals Council remands (disability cessation cases);
- cases with clear, concise, and legible writing instructions;
- cases that have specific ALJ instructions regarding claimants' functional limitations; and
- no civil court cases.

A July 2018 Government Accountability Office (GAO) audit found one of SSA's key efforts to reduce processing times at the appeals level involved transferring appealed disability cases from offices with backlogs to offices with more capacity, but SSA lacked meaningful timeliness measures to assess its efforts. SSA did not have an accurate metric to determine how individual offices contribute to processing times—information critical to assessing the effectiveness of transferring cases in meeting timeliness goals. SSA agreed with GAO's recommendation to develop a timeliness metric or set of metrics that more accurately reflect offices' performance in light of case transfers.<sup>13</sup> The Agency stated it would refine existing metrics and develop additional reporting tools, if necessary, to better measure individual office contributions and ensure performance is accurately reflected when it receives transferred work. On January 22, 2019, SSA notified GAO that it implemented the recommendation by creating a report to show the effect of transfers.

### *Case File Sizes*

The next most common factor cited for decision-writing backlogs was increasing case file sizes, with 35 interviews identifying it as a negative factor.<sup>14</sup> Individuals stated cases with more pages of evidence took longer to review and write because the DW was required to read and summarize all the evidence in the folder and ensure the ALJ addressed all relevant issues in the case.

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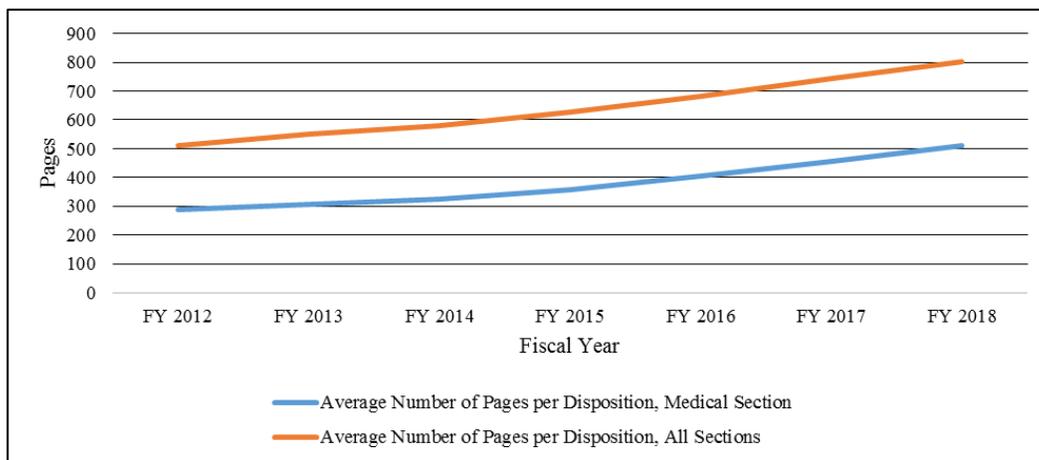
<sup>13</sup> GAO, *Social Security Disability – Better Timeliness Metrics Needed to Assess Transfers of Appeals Work*, GAO-18-501, pp. 19-22 and 38 (July 19, 2018).

<sup>14</sup> Employees also mentioned large case files as an issue that affected processing times in our May 2018 report, SSA, OIG, *Workload Review of the Office of Hearings Operations' Atlanta and New York Regions*, A-12-18-50285.

The average number of pages of medical evidence had increased since 2012, as shown in Figure 5.<sup>15</sup> SSA provided data that showed, nationally, the average number of pages in the medical records section of disability folders grew from 288 in FY 2012 to 509 in FY 2018—a 76-percent increase.

The overall average size of disability case files (including medical and non-medical evidence) had also grown since 2012. SSA provided data that showed, nationally, the average number of pages in disability folders grew from 509 pages in FY 2012 to 803 pages in FY 2018—a 58-percent increase. Some offices experienced larger file growth than others. For example, in FY 2018, the hearing office in San Rafael, California, had an average case file size of over 1,000 pages, a 94-percent increase since FY 2012. Five other offices also had an average case file size over 1,000 pages in FY 2018.

**Figure 5: Average Number of Pages in Disability Folders  
FYs 2012 Through 2018**



In FY 2016, SSA piloted the 1,000 Plus Page Case Review initiative in 23 offices where DWs conducted pre-hearing reviews of cases with large medical files, summarized the information, and provided analyses for the ALJs. The National Adjudication Team (NAT)<sup>16</sup> attorneys conducted case reviews and prepared on-the-record decisions where appropriate. For cases the NAT could not adjudicate, it provided pre-hearing summaries of the evidence and case issues for

<sup>15</sup> Disability case files contained documents that DWs would not have needed to review, such as activity logs from the disability determination services, copies of requests for evidence, or documents marked as duplicates but not removed from the file. However, the overall growth in case file sizes indicated DWs had to review more documents per case in FY 2018 than in FY 2012.

<sup>16</sup> SSA established NAT as a nation-wide cadre of senior attorney advisers to issue fully favorable decisions (for NAT-selected cases) and to review cases for ALJs before the hearing. SSA, Office of the Chief ALJ, *The National Adjudication Team—INFORMATION* (April 3, 2015).

use by the ALJs. In December 2016, SSA temporarily suspended these initiatives to allow offices to focus on decision writing.<sup>17</sup>

In 2017, SSA implemented two rules about evidence submission.<sup>18</sup> In January 2017, SSA required that all claimants (or their representatives) inform the Agency about, or submit all evidence known to them that relates to, whether they were blind or disabled.<sup>19</sup> Additionally, for hearings held on or after May 1, 2017, claimants must make every effort to inform SSA about, or submit, all written evidence that is not already in the record no later than 5 business days before the date of scheduled hearings.<sup>20</sup>

### *ALJ Instructions to DWs*

The ALJ adjudicating the case is responsible for providing and assisting the DW with complete, clear, and policy-compliant directions. Most importantly, the ALJ needs to include the rationale supporting the findings that affect the ultimate conclusion. A DW must have enough information to understand what an ALJ wants to include in the decision and why the ALJ wants that information included.<sup>21</sup> SSA informed us the most recent guidance to ALJs on instruction requirements were memorandums from the Chief ALJ to all ALJs in 2012, 2013, and 2016.<sup>22</sup>

In 32 interviews, individuals cited problems with ALJs' instructions to DWs. Some said the ALJs' instructions were not complete or consistent, which required DWs to ask the ALJs for clarification. Others said ALJ's unclear instructions caused deficiencies that were contrary to law and SSA policy.

Although OHO issued official guidance by emailed memorandums on instructions and decision notice requirements, many interviewees—managers and DWs—said ALJs' instructions were often inadequate. For example, some ALJs did not provide enough detail for the DWs to know the rationale for the decisions, while others requested the decisions include information not required by SSA policy. One interviewee said ALJ instructions were not always complete and

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<sup>17</sup> SSA, *2017 Updated CARES and Anomaly Plan*, p. 9.

<sup>18</sup> Our 2017 report found these changes in regulations led to an increase in medical evidence claimants must submit for their hearing and decreased ALJ productivity. SSA, OIG, *Factors Related to Decreased Administrative Law Judge Productivity, A-12-18-50289* (September 11, 2017).

<sup>19</sup> 20 C.F.R. §§ 404.1512(a) and 416.912(a) (govinfo.gov 2018); SSA, *HALLEX*, vol. I, ch. I-1-2, sec. I-2-5-1 (May 1, 2017).

<sup>20</sup> 20 C.F.R. §§ 404.935(a) and 416.1435(a) (govinfo.gov 2018); SSA, *HALLEX*, vol. I, ch. I-1-2, sec. I-2-5-1 (May 1, 2017).

<sup>21</sup> SSA, *HALLEX*, vol. I, ch. I-1-2, sec. I-2-8-20 (March 10, 2016).

<sup>22</sup> SSA, Office of the Chief ALJ, *Expectations for Legally Sufficient Decisions—INFORMATION* (February 27, 2012); *Expectations for Instructions to Decision Writers—INFORMATION* (July 10, 2013); and *Expectations for Instructions to Decision Writers—CLARIFICATION* (June 7, 2016).

sometimes did not include a list of the severe impairments, the weight given to the medical opinions, or the mental limitations in functioning when there were mental impairments.

OHO provided several systems tools for ALJs to use in preparing instructions for DWs but has never required their use. Some ALJs were hand writing instructions, while others used OHO's tools, such as the Document Generation System (DGS),<sup>23</sup> Electronic Bench Book (eBB),<sup>24</sup> Findings Integrated Templates (FIT),<sup>25</sup> or Decision Writing Instructions.<sup>26</sup> As of October 2018, OHO was working with subject matter experts to enhance Decision Writing Instructions based on business needs. The Agency considered making Decision Writing Instructions mandatory for all ALJs, which was also suggested in interviews—<sup>27</sup> suggested standardizing instructions from ALJs to DWs and 12 suggested clarifying decision notice requirements. In FY 2018, the St. Louis National Case Assistance Center piloted an initiative to accept only typed ALJs' instructions. According to a pilot participant, DW speed increased only 1 to 2 percent over hand-written instructions, and the content of the ALJs' instructions was more important than the format.

### *Changes in Decision Notice Requirements*

In 17 interviews, individuals cited changes in decision notice requirements as contributing to backlogs because the additional requirements made the decision notices longer, especially for favorable decisions. These individuals believed the additional requirements resulted from an increased focus on quality<sup>27</sup> and in response to a fraud case.<sup>28</sup> The additional requirements included addressing medical opinions, credibility issues (symptom evaluation), and earnings as well as more details on claimants' functional limitations.

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<sup>23</sup> DGS was OHO's first national system to draft decisions. SSA piloted DGS in 1999 before expanding it nationwide. DGS was last updated in September 2018.

<sup>24</sup> The eBB was a voluntary Web-based application to help users document, analyze, and make consistent and accurate decisions on hearing-level adult disability cases. After our review of the *Electronic Bench Book, A-01-12-11217* (June 21, 2016), the Agency decided to retire eBB, moving its functionality into the Hearings and Appeals Case Processing System. SSA, Office of the Chief ALJ, *Replacement of the Electronic Bench Book—INFORMATION* (May 1, 2018).

<sup>25</sup> FIT was released to all hearing offices in January 2006 and includes approximately 2,000 templates that cover various claim types. The most common decision outcomes are provided for in the templates, and, because they convert to editable documents, the findings can be modified to accommodate such situations as age category changes that do not fit with the templates already created.

<sup>26</sup> OHO implemented Decision Writing Instructions in November 2017 to streamline writing instructions.

<sup>27</sup> Our September 2017 audit found an increased focus on quality caused ALJs to look more closely at their cases and spend more time reviewing the medical evidence, which slowed ALJ productivity. SSA, OIG, *Factors Related to Decreased Administrative Law Judge Productivity, A-12-18-50289* (September 11, 2017).

<sup>28</sup> In 2011, we received whistleblower allegations that an ALJ in Huntington, West Virginia, conspired with an attorney to grant favorable decisions to disability claimants who were potentially ineligible for benefits. As a result of the criminal investigation, an attorney who represented disability claimants pled guilty to stealing from the Government and paying illegal gratuities, and an ALJ pled guilty on two felony counts.

As shown in Table 3, OHO estimated favorable decisions were 3 pages longer (about 23 percent), on average, in FY 2018 than in 2012. Conversely, unfavorable decisions were 1 page longer (about 6 percent), on average, in FY 2018 than in 2012.

**Table 3: Estimated Average Decision Page Length  
FYs 2012 Through 2018<sup>29</sup>**

FY	Average Pages		
	Dismissals	Favorable Decisions	Unfavorable Decisions
2012	15	13	18
2013	15	13	18
2014	16	14	19
2015	16	14	19
2016	17	15	19
2017	17	15	20
2018	17	16	19

### *ALJ Productivity*

In 13 interviews, individuals cited increased ALJ productivity as having contributed to decision-writing backlogs because SSA did not have enough DWs to process the additional cases. As shown in Table 4, although individual ALJ productivity decreased between FYs 2012 and 2018 (measured by average hearings held per day and dispositions per day per ALJ),<sup>30</sup> the total number of dispositions decreased through FY 2016 and then increased through FY 2018. The increase resulted from ALJ hiring as well as new ALJs becoming more productive as they gained experience. Additionally, in March 2017, OHO increased the expected number of hearings scheduled per month per ALJ to 50. Although the Agency expected the increase to have a positive effect on the hearings backlog,<sup>31</sup> the number of hearings scheduled and held per ALJ per day did not increase from FY 2017 to FY 2018. However, the increased focus on productivity may have led to the increased number of dispositions per ALJ per day, as shown in Table 4.

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<sup>29</sup> SSA, Case Processing Management System, Structured Data Repository. These estimates excluded cases that did not have electronic disability folder identifiers and documents that did not have page number counts or were added to folders after the hearing-level disposition dates. After SSA provided these estimates, we tested the reliability of the data. We pulled random samples of hearings level allowances and denials in FYs 2011 and 2017 and determined the average length of decision notices. See Table B-2 for details.

<sup>30</sup> We assessed factors related to decreased ALJ productivity in our review of *Factors Related to Decreased Administrative Law Judge Productivity, A-12-18-50289* (September 11, 2017).

<sup>31</sup> SSA, *2017 Updated CARES and Anomaly Plan*, p. 14.

**Table 4: ALJ Productivity  
FYs 2012 Through 2018**

FY	Hearings Scheduled Daily per ALJ	Total Hearings Held	Hearings Held Daily per ALJ <sup>32</sup>	Total Dispositions	Dispositions Daily per ALJ
2012	2.78	672,352	2.07	820,484	2.41
2013	2.80	685,840	2.03	793,580	2.30
2014	2.62	614,681	1.88	680,963	2.07
2015	2.51	563,893	1.79	663,129	2.10
2016	2.37	562,389	1.68	637,472	1.90
2017	2.44	605,483	1.69	685,657	1.92
2018	2.46	627,637	1.69	765,554	2.06

### *Duplicate Medical Records in Files*

In 11 interviews, individuals stated DWs spent time checking evidence for duplicate records. Individuals said that after HIT records were expanded and the policy changes on evidence submission caused claimant representatives to submit more evidence (even if it was duplicative), the number of duplicate records in files increased.

SSA informed us, that, in August 2018, it acquired software to remove duplicate evidence. As of October 2018, the Agency was working with the vendor to integrate and configure the software, develop the business process to use it, and identify early adopters to test the software.

### **Issues that Affected DW Productivity**

Interviewees mentioned several issues that affected DW productivity, including the DW Productivity Index (DWPI). DWPI measures productivity,<sup>33</sup> case assignments and workloads, and decreased morale.

#### *DWPI*

SSA implemented the DWPI to measure an attorney adviser's or paralegal analyst's productivity (how long the DW takes per case) compared to historical averages. Senior attorney advisers were not subject to DWPI because they wrote the most complex cases and had several other duties. As of May 2017, the national averages ranged from 3.03 hours for a fully favorable case to 14.63 hours for an unfavorable or partially favorable case in which drug or alcohol addiction was material.

<sup>32</sup> Some hearings may not be held when scheduled for such reasons as postponements for the claimants to obtain representation.

<sup>33</sup> SSA, 2017 Updated CARES and Anomaly Plan, p. 11.

When OHO implemented DWPI nationally in FY 2017, it set the minimum standard for an individual DW to be successful at 70 percent of the national DWPI average. In FY 2018, OHO set the minimum standard at 80 percent and raised it to 95 percent for FY 2019. Several managers said when the threshold was 70 percent, many DWs had been producing higher but lowered their productivity to the minimum requirement. These managers also said DWs always adjusted their productivity to meet the threshold each time it was raised.

During 16 interviews concerning DWPI, individuals said most DWs met the DWPI threshold in FY 2018. At the same time, in 15 interviews, individuals said DWPI did not fairly account for all cases or non-writing time, such as training or reviewing cases for ALJs.

### How DWPI Was Used in Performance Assessments

SSA stated the DWPI threshold was one factor in rating an employee's performance. For each element in an employee's performance assessment plan, the Agency established performance standards to provide the framework for what was expected of an employee. Performance expectations provided context and detail for the standard. The overall standard was not changed when DWPI was introduced. The DWPI threshold was used as one factor that provided context for rating an employee's performance.

Meeting the DWPI minimum was not a strict requirement, and management was required to view the number in context of the employee's workload and consider all factors that affected performance (for example, non-writing duties that DWs performed as well as case complexity). If, after discussions with the employee, the manager determined that factors beyond the employee's control affected the employee's performance, it may have been appropriate to regard that employee as successful.

DWs were not evaluated based on the accuracy of the decisional outcomes.<sup>34</sup> OHO evaluated a DW's quality by determining whether the employee provided sound analytical reasoning and clear and accurate oral and written information, produced a fair share of work according to supervisory expectations, and contributed to accomplishment of office work goals by accurately completing work within specified time frames.

### *Case Assignments and DW Workloads*

Interviewees had mixed opinions on whether case assignments and workloads were fair. In 21 interviews, they said the local managers were fair in assigning work, but, in 15, they said managers were not fair. This appeared to be a localized issue, as most of the negative responses were concentrated in a few hearing offices. DWs in these offices believed some DWs received preferential treatment, the case assignments were not always fairly distributed because

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<sup>34</sup> OHO included decisional quality as part of an ALJ's performance. We assessed the Agency's actions to monitor and improve the quality of ALJ decisions in our report, *Oversight of Administrative Law Judge Decisional Quality*, A-12-16-50106 (March 14, 2017).

supervisors did not have decision-writing experience, and supervisors who assigned cases to their group of DWs first got to pick the easier ones for their group.

### *Decreased Morale*

Decreased morale affected DW productivity, as mentioned in 20 interviews. One DW said there was no career development, which caused morale issues and it was hard to get motivated to produce above the minimum. Another DW said writing was monotonous. Finally, a DW stated there was often writer burn-out after the first year and no opportunities for promotion, which eventually caused a slowdown in productivity.

A few supervisors said they had tried to find ways to raise morale, such as the “Decision of the Month” award—the winner was recognized office-wide and received a small gift (like a basket of candy). They also sent encouraging emails. We identified decreased morale in our May 2018 report on hearing offices in OHO’s New York and Atlanta Regions.<sup>35</sup>

## **Tools and Initiatives to Help Decision-writing**

Interviewees generally thought they had the tools they needed to write decisions, such as online access to laws, regulations, and SSA policies and procedures as well as training and learning from other DWs. Several commented on the templates OHO provided for drafting decisions, especially the updated template for fully favorable decisions.

### *Decision-writing Templates and Systems*

In 33 interviews, individuals said the DGS and FIT worked well for drafting decisions, but 5 reported the templates were not always updated with policy changes. SSA stated changes to DGS and FIT were programmed and validated by the Office of Systems and delivered to users via a Systems-initiated download to hearing office servers. Once the servers were updated, users had immediate access to the new templates by opening the client software. As of October 2018, SSA was not planning to update DGS or FIT but was maintaining the system as necessary. Any requested updates to DGS and FIT would be considered as part of the requirements for Decision Writing Instructions and the Hearings and Appeals Case Processing System.

### *Updated Fully Favorable Template*

OHO released the updated fully favorable template nationwide in June 2018. SSA informed ALJs and DWs about the updated template in a memorandum that included a comparison of differences between the original and updated fully favorable template. It also included a link to a video introduction to the template by the Deputy Chief ALJ.<sup>36</sup>

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<sup>35</sup> SSA, OIG, *Workload Review of the Office of Hearings Operations’ Atlanta and New York Regions*, A-12-18-50285 (May 2, 2018).

<sup>36</sup> SSA, Office of the Chief ALJ, *Decision Writing Policy Guidance Part I: Fully Favorable Decisions—INFORMATION AND REMINDER* (June 18, 2018).

As of October 2018, SSA had not completed formal studies on the time saved by using the updated fully favorable template. However, OHO reported informal feedback suggested DWs saved 30 minutes and ALJs about 15 minutes in editing time per case.

Interviewees had mixed opinions on the updated fully favorable template. In 16 interviews, they said it was helpful and saved time. However, in five, they reported it did not save time. One DW stated the updated template contained less boilerplate language, but that did not help save time because the problems were not with the template but with the details of writing the decisions.

## **Addressing the Decision-writing Backlog**

The top items reported as having helped address the decision-writing backlogs were the fully favorable pushes, assistance from other offices (discussed earlier), availability of overtime, and help from the regional offices.

### *Fully Favorable Pushes*

In FY 2018, OHO conducted fully favorable pushes, which were specific days dedicated to writing only fully favorable decisions nationwide to expedite processing. Interviewees had mixed opinions on fully favorable pushes. In 23 interviews, they said the pushes were not helpful because they were only temporary fixes and the other cases still had to be written later. However, in 11 interviews, individuals said the fully favorable pushes had helped. One regional manager said it was the right thing to do, both morally and for public relations.

SSA informed us it did not have any fully favorable pushes planned in FY 2019. However, the Agency may implement fully favorable pushes should workload considerations support them and to ensure claimants who are entitled to benefits receive them as quickly as possible.

OHO generally implemented fully favorable pushes early in the month to ensure any potential work imbalances were corrected during the remainder of the month. Aside from fully favorable pushes and other high priority cases, such as aged and critical cases, SSA adjudicated cases in first-in, first-out order. Once cases had been scheduled and heard, staff worked to get decisions to claimants as soon as possible.

## *Overtime*

The availability of overtime hours for decision-writing helped address the backlog, as reported in 15 interviews. As shown in Table 5, OHO provided over 300,000 hours of overtime for decision-writing in FYs 2017 and 2018.

**Table 5: Overtime Hours Used for Decision-writing  
FYs 2011 Through 2018**

<b>FY</b>	<b>Total Overtime Hours</b>
2011	79,020
2012	164,633
2013	190,398
2014	164,451
2015	181,559
2016	122,635
2017	304,118
2018	342,370

## *Role of Regional Offices*

The OHO regional offices helped hearing offices address the decision-writing backlogs, as reported in 14 interviews. For example, one manager said they conducted Hearing Office Management Process Reviews to look at workloads and benchmarks, pulled case status reports, and kept cases moving.

## **Suggestions**

Many of the top suggestions interviewees had for addressing the decision-writing backlog related to issues discussed earlier in this report, such as hiring more DWs (suggested in 31 interviews), standardizing instructions from ALJs to DWs (27 suggested), clarifying decision notice requirements (12 suggested), balancing DW workloads (11 suggested), and transferring cases for decision-writing assistance (10 suggested).

## *Training*

In 12 interviews, individuals suggested additional training opportunities. Examples included training on

- advanced topics, such as non-disability issues or how to write instructions;
- how to describe the claimants' limitations because DWs often have to justify them when they do not know how the ALJs determined them; and
- advanced DW topics, including hands-on, practical skills training, such as how to manage writing workloads.

## *Senior Attorney Adviser Program*

SSA implemented the senior attorney adviser program in November 2007 to issue high quality, fully favorable on-the-record decisions while maintaining the current level of ALJ decision-writing support. By having senior attorney advisers issue fully favorable on-the-record decisions, SSA could conserve ALJ resources for the more complex cases and cases that required hearings. As shown in Table 6, senior attorney advisers adjudicated thousands of claims each year until the program was decreased in FY 2014 and stopped in FY 2018.<sup>37</sup>

**Table 6: Senior Attorney Adviser Dispositions  
FYs 2011 Through 2018**

<b>FY</b>	<b>Number of Senior Attorney Adviser Dispositions</b>
2011	53,253
2012	37,423
2013	18,625
2014	1,872
2015	607
2016	1,187
2017	686
2018	0

SSA replaced the senior attorney adviser program with the NAT<sup>38</sup> after its Office of Quality Performance noticed a significant drop in its decisional agreement rate on senior attorney adviser decisions. Only NAT attorneys were permitted to issue fully favorable decisions and only for NAT-selected cases. Attorney advisers who were not in the NAT were permitted to screen cases selected and assigned by hearing office management and perform some pre-hearing procedures at the direction of hearing office management but only to identify potential ALJ on-the-record decisions or assist ALJs with hearings. The first NAT included 27 attorneys nationwide. In 11 interviews, individuals suggested SSA reinstate the senior attorney adviser program so more of the 502 senior attorney advisers could review cases for on-the-record decisions.

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<sup>37</sup> Our 2013 report found the senior attorney adviser program contributed to both an increase in adjudicative capacity and improved average processing time until SSA noticed a significant drop in quality. SSA, OIG, *Effects of the Senior Attorney Adjudicator Program on Hearing Workloads*, A-12-13-23002 (June 28, 2013).

<sup>38</sup> SSA, Office of the Chief ALJ, *The National Adjudication Team—INFORMATION* (April 3, 2015).

SSA stated the NAT was the team of senior attorney advisers dedicated to reviewing and deciding cases for on-the-record decisions. While OHO paused the NAT in December 2016 to focus on the decision-writing backlog, it reinstated the NAT in FY 2019, with 24 senior attorney advisers and 1 manager. The NAT began reviewing and adjudicating cases on November 5, 2018.

### *All Hands on Deck Initiative*

SSA introduced the All Hands on Deck initiative in the *2017 Updated CARES and Anomaly Plan* to support efforts for reducing the decision-writing backlog.<sup>39</sup> This effort used SSA Headquarters, regional, management, and quality review employees with decision-writing experience to assist temporarily with the decision-writing backlog. The Agency planned to continue this initiative in FY 2019, with the exception of the quality review staff, as it reinstated the inline quality review program in FY 2019.

## CONCLUSIONS

Similar factors contributed to decision-writing backlogs in hearing offices in all regions. Interviewees said the main cause of the decision-writing backlog was staffing imbalances. Interviewees also discussed others reasons for the decision-writing backlog, including issues that affected DW productivity. Additionally, they described actions that had worked to address writing backlogs and offered suggestions on what would help them in the future.

Although the decision-writing backlog peaked in FY 2017, it had decreased by 31 percent as of January 2019. Therefore, we did not make any recommendations. Also, we did not include specific recommendations for issues identified in this report that SSA is working on as part of its CARES plan. Additionally, we did not include specific recommendations from our prior reports that SSA was still addressing.

## AGENCY COMMENTS

SSA did not have any comments on the report, see Appendix E.



Rona Lawson  
Assistant Inspector General for Audit

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<sup>39</sup> SSA, *2017 Updated CARES and Anomaly Plan*, p. 11.

# *APPENDICES*

## Appendix A – HEARING OFFICE ORGANIZATION CHART AND POSITION DESCRIPTIONS

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Hearing offices vary in the number of managers, administrative law judges (ALJ), and staff, but they all have the same basic organizational structure. Some non-SSA employees also fulfill a number of crucial roles and responsibilities in the hearings operation. Table A–1 lists the hearing office positions and describes their duties.

**Table A–1: Hearing Office Position Descriptions**

Title	Position Description
Hearing Office Chief Administrative Law Judge (HOCALJ)	Directly responsible for all program and administrative matters concerning the Social Security Administration’s (SSA) hearing process in the hearing office. The HOCALJ is the first-line supervisor to ALJs and has full responsibility and authority to hold hearings and issue decisions made during administration of Titles II, XVI, and XVIII of the <i>Social Security Act</i> .
ALJ	Holds hearings and makes and issues decisions on appeals from determinations made while administering Titles II, XVI, and XVIII of the <i>Social Security Act</i> .
Hearing Office Director	Serves as the principal management adviser to the HOCALJ and participates significantly with the HOCALJ in the hearing office’s overall management and administration. The hearing office director supervises, plans, organizes, and controls operating activities in a hearing office.
Group Supervisor	The first-line supervisor of the attorney adviser, paralegal analyst, lead case technician, senior case technician, and case technician. The group supervisor directs all the activities of employees assigned to the group to ensure the efficient, timely, and legally sufficient processing of hearing office cases.
Attorney Adviser	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 attorney adviser analyzes, researches, and develops cases, and formulates and drafts comprehensive decisions for the ALJ.
Senior Attorney Adviser	Performs the same duties as the attorney adviser but usually for the more complex cases. In addition, the senior attorney adviser performs other duties, such as reviewing cases for ALJs, mentoring, and training.
Paralegal Analyst	Assists the ALJ in formulating the case decision by evaluating all program, legal, and medical aspects of the case including exhibits; all testimony; and all pertinent laws, regulations, and precedent court cases.

Title	Position Description
Lead Case Technician	Leads the work of three or more employees engaged in developing and processing a request for hearing from its receipt in the hearing office to its completion. The lead case technician processes more complex hearing cases where analysis of pertinent issues and interpretation of the provisions of laws, regulations, rulings, precedents, policies, procedures, and guidelines relative to the case is necessary.
Senior Case Technician	Processes more complex hearing cases and prepares case summaries by outlining information from all documents that reflect the claimant’s prior medical history and treatment undertaken and any conflicting medical evidence.
Case Technician	Reviews and analyzes a variety of medical and legal documentation, records, and evidence to ensure case files are received and developed in accordance with legal and regulatory authorities. The case technician also schedules cases for hearing in accordance with legal and regulatory requirements and coordinates the hearing’s time and date with claimants, representatives, expert witnesses, and hearing reporters.
Hearing Office System Administrator	Installs, configures, upgrades, and troubleshoots hearing office information technology hardware and software. The administrator serves as the focal point in the ongoing support of information technology initiatives.
Administrative Assistant	Provides day-to-day administrative management services essential for the hearing office’s operation. These services include aspects of budget execution and formulation, personnel administration, procurement and supply, contract administration, travel, payroll services, and reports management.
Case Intake Assistant	This is a specialized position in that a majority of the work involves master docket duties. The case intake assistant is responsible for developing and processing a case from its receipt in the office to its completion. The case intake assistant reviews and analyzes the case to ensure sufficiency of evidence and to ensure that the case is ready for a hearing. Also, the case intake assistant contacts the claimant to secure current evidence of record.
Receptionist	Provides information in person and/or over the telephone in response to inquiries concerning the hearing office’s general responsibilities, functions, program activities, and personnel as well as performing other clerical activities.
Contact Representative	Dispenses information to the public, in person, or by telephone, explaining the legal provisions, regulations, and procedural requirements for obtaining benefits under the Social Security program as they relate to a specific case, and explaining the application of regulatory provision and the basis for the Agency’s determinations in individual cases.

**Table A–2: Hearing Office Roles and Responsibilities of Non-SSA Employees**

Title	Roles and Responsibilities
Claimant Representative	<p>A claimant appoints a claimant representative to act on his/her behalf in pursuing his/her claim or asserted rights before SSA. The claimant representative may, on the claimant’s behalf,</p> <ul style="list-style-type: none"> <li>● obtain information about the claim that SSA would generally provide the claimant;</li> <li>● examine any documents to which the claimant would have access;</li> <li>● appear at any interview or hearing, either alone or with the claimant;</li> <li>● submit evidence;</li> <li>● be informed of all additional evidence needed to support the claim;</li> <li>● make statements about facts and law;</li> <li>● make any request or give any report or notice about the proceedings before SSA; and</li> <li>● be notified of any decision made in the claim, including, if applicable, decisions regarding auxiliary beneficiaries.</li> </ul>
Verbatim Hearing Reporter	<p>The verbatim hearing reporter’s duties are to</p> <ul style="list-style-type: none"> <li>● be present at the designated hearing site on the date and time specified;</li> <li>● set up and test the recording equipment;</li> <li>● record the proper identification information on the hearing cassette tape;</li> <li>● monitor the recording equipment during the hearing to ensure it is functioning properly and a verbatim record of the hearing proceedings is made; and</li> <li>● take notes of hearing testimony, ensuring ALJ directives pertaining to additional evidence and other needed documents are noted.</li> </ul>
Interpreters	<p>SSA provides interpreter services at no cost to assist non-English speaking claimants who have difficulty understanding or communicating in English during any part of the hearing process. The interpreter must accurately interpret each word spoken during the hearing from English to the claimant’s language and, as the claimant answers, the interpreter listens and renders the English version.</p>

Title	Roles and Responsibilities
<p>Medical Experts (ME)</p>	<p>An ALJ may need to obtain an ME’s opinion, either in testimony at a hearing or in response to written interrogatories, when the</p> <ul style="list-style-type: none"> <li>● ALJ is determining whether a claimant’s impairment(s) meets or equals a listed impairment(s);</li> <li>● ALJ is determining usual dosage and effect of drugs and other forms of therapy;</li> <li>● ALJ is assessing a claimant’s failure to follow prescribed treatment;</li> <li>● ALJ is determining the degree of severity of a claimant’s mental impairment;</li> <li>● claimant or the claimant’s representative has requested the presence of an ME at the hearing and the ALJ agrees that ME testimony is necessary;</li> <li>● ALJ has doubt about the adequacy of the medical record in a case, and believes that an ME may be able to suggest additional relevant evidence;</li> <li>● medical evidence is conflicting or confusing, and the ALJ believes an ME may be able to clarify the evidence;</li> <li>● significance of clinical or laboratory findings in the record is not clear, and the ALJ believes an ME may be able to explain the findings and assist the ALJ in assessing their clinical significance;</li> <li>● ALJ is determining the effects of medical impairments on claimants’ ability to work (that is, the ALJ may ask the ME to explain or clarify the claimant’s functional limitations and abilities as established by the medical evidence of record); or</li> <li>● ALJ desires an expert medical opinion regarding the onset of an impairment.</li> </ul> <p>The ALJ must obtain an ME’s opinion, either in testimony at a hearing or in response to written interrogatories, when the Appeals Council or a court so orders. In addition, the ALJ must use an ME to evaluate and interpret background medical test data.</p>

Title	Roles and Responsibilities
Vocational Experts (VE)	<p>An ALJ may need to obtain a VE’s opinion, either in testimony at a hearing or in written responses to interrogatories when the ALJ is determining whether the claimant’s impairment(s) prevents the performance of</p> <ul style="list-style-type: none"> <li>● past relevant work, or</li> <li>● any other work and he/she cannot decide the case.</li> </ul> <p>The ALJ must obtain a VE’s opinion, either in testimony at a hearing or in response to written interrogatories, when directed by the Appeals Council or a court.</p>

## Appendix B – SCOPE AND METHODOLOGY

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To accomplish our objective, we:

- Reviewed applicable sections of the *Social Security Act* and the Social Security Administration’s (SSA) regulations, rules, policies, and procedures.
- Reviewed the following Office of the Inspector General reports.
  - Workload Review of the Office of Hearings Operations’ Atlanta and New York Regions, A-12-18-50285 (May 2018).
  - Administrative Law Judge Allowance Rates, Quality, and Length of Service, A-12-17-50247 (September 2017).
  - Factors Related to Decreased Administrative Law Judge Productivity, A-12-18-50289 (September 2017).
  - Oversight of Administrative Law Judge Decisional Quality, A-12-16-50106 (March 2017).
  - Pre-Effectuation Reviews of Favorable Hearing Decisions, A-12-15-50015 (February 2017).
  - Electronic Bench Book, A-01-12-11217 (June 2016).
  - On-the-Record Favorable Decisions Processed at Hearing Offices Within 100 Days of Receipt, A-12-14-14082 (January 2016).
  - The Social Security Administration’s Efforts to Eliminate the Hearings Backlog, A-12-15-15005 (September 2015).
  - Effects of the Senior Attorney Adjudicator Program on Hearing Workloads, A-12-13-23002 (June 2013).
  - The Role of National Hearing Centers in Reducing the Hearings Backlog, A-12-11-11147, (April 2012).
  - Office of Disability Adjudication and Review Decision-Writing Process, A-02-09-19068 (November 2010).
  - Hearing Office Performance and Staffing, A-12-08-28088 (February 2010).
  - The Effects of Staffing on Hearing Office Performance, A-12-04-14098 (March 2005).
- Reviewed the following Government Accountability Office reports.
  - SSA Disability Programs: Better Metrics and Evaluation Needed to Inform Decision-Making, GAO-18-677T (July 2018).
  - Social Security Disability: Better Timeliness Metrics Needed to Assess Transfers of Appeals Work, GAO-18-501 (July 2018).
  - Social Security Disability: Additional Measures and Evaluation Needed to Enhance Accuracy and Consistency of Hearing Decisions, GAO-18-37 (December 2017).

- Disability Compensation: Review of Concurrent Receipt of Department of Defense Retirement, Department of Veterans Affairs Disability Compensation, and Social Security Disability Insurance, GAO-14-854R (September 2014).
- Reviewed and analyzed the following data from Office of Hearings Operations' workload management systems and management information reports.
  - FY 2011 to 2019 trends in the number of pending hearings (backlog).
  - FY 2011 to 2018 trends in staffing levels and ratios.
  - FY 2011 to 2018 trends in ALJ productivity.
  - FY 2011 to 2018 trends in staff productivity.
- Reviewed and analyzed relevant SSA policies and procedures and Agency actions, initiatives, strategy, and future plans specific to decision-writing.
- Obtained feedback from the two unions that represent decision writers—the National Treasury Employees Union and the American Federation of Government Employees.
- Conducted 76 interviews with 102 individuals in person or by telephone,<sup>1</sup> including
  - managers in regional offices and hearing offices,
  - attorney advisers and senior attorney advisers, and
  - paralegal specialists.

These individuals were located in (1) 14 hearing offices in the Atlanta, Chicago, Dallas, Philadelphia, and San Francisco Regions, as shown in Table B-1, and (2) six regional offices located in Atlanta, Boston, Chicago, Dallas, New York, and San Francisco. We included hearing offices that had a history of cases waiting for written decisions. We asked interviewees to describe why they thought there was a backlog of cases waiting for decision-writing.

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<sup>1</sup> We conducted group interviews with managers and individual interviews with decision writers, so the 76 interviews included input from 102 individuals.

**Table B–1: Hearing Offices Included in Review**

Region	Hearing Office Location
Atlanta	Birmingham, Alabama
	Columbia, South Carolina
	Fort Lauderdale, Florida
Chicago	Cleveland, Ohio
	Milwaukee, Wisconsin
	Oak Park, Michigan
	Orland Park, Illinois
Dallas	Fort Worth, Texas
	Oklahoma City, Oklahoma
	San Antonio, Texas
Philadelphia	Huntington, West Virginia
San Francisco	Oakland, California
	San Jose, California
	San Rafael, California

- Interviewed five individuals in National and Regional Case Assistance Centers to obtain additional information on the business processes in those offices. These individuals were in (1) National Case Assistance Centers in St. Louis and Falls Church and (2) Regional Case Assistance Centers in Detroit and Phoenix.
- Selected examples from individual interviews that represented a wider response.
- Obtained the Case Processing Management System data (hearing decisions) for FYs 2011 and 2017 and determined the data were reliable for our objective.
- Identified 378,752 individuals allowed and 193,059 denied in FY 2011 and 235,520 individuals allowed and 167,749 individuals denied in FY 2017.
- Selected random samples of 100 individuals allowed and 100 individuals denied from FYs 2011 and 2017 to determine the average length of decision notices, as shown in Table B–2.<sup>2</sup>

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<sup>2</sup> We replaced sample cases for which the notice was not in SSA’s systems or the issue was not disability and those with bench decision allowances that did not explain the details of the case, evidence, or rationale for the allowance. An ALJ may enter a fully favorable oral decision based on the preponderance of the evidence into the record of the hearing proceedings, and thereafter issue a written decision that incorporates the oral decision by reference. SSA, *HALLEX* vol. I, ch. I-2-8, sec. I-2-8-19 (November 7, 2016).

**Table B–2: Sample Results - Average Decision Length FYs 2011 and 2017**

FY	Average Pages	
	Favorable Decisions	Unfavorable Decisions
2011	11	17
2017	13	20

- Provided our preliminary results to Office of Hearings Operations management and incorporated their feedback where appropriate.

We conducted our review between March 2018 and January 2019 in Boston, Massachusetts, and Arlington, Virginia; at regional offices in Boston, New York, Atlanta, Chicago, Dallas, and San Francisco; and at various SSA hearing offices listed in Table B–1. The principal entity audited was the Office of Hearings Operations.

We conducted this performance audit 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 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. Based on tests we performed, we concluded the evidence and Case Processing and Management System data were sufficiently reliable to support the findings, conclusions, and recommendation of the review.

## Appendix C – TOP INTERVIEW RESPONSES

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The tables below show the top interviewee responses during our review.

- Table C–1 shows reasons for the decision-writing backlog.
- Table C–2 shows what has helped decision writer (DW) productivity.
- Table C–3 shows issues that have affected DW productivity.
- Table C–4 shows tools and initiatives that helped decision-writing.
- Table C–5 shows tools and initiatives that have not helped decision-writing.
- Table C–6 shows what has worked to address backlogs.
- Table C–7 shows what has not worked to address backlogs.
- Table C–8 shows suggestions to address the backlogs.

**Table C–1: Reasons for the Decision-writing Backlog**

Issue	Total Responses
Staffing imbalances – not enough DWs for the number of administrative law judges (ALJ)	54
Case files larger than they used to be	35
Issues with ALJ instructions	32
Writing methods/processes changed	17
Increased ALJ productivity	13
DWs had to fix all the problems in cases	12
Claimant representatives sent lots of records with lots of duplicate records	11
Excessive oversight (in response to problems in other places)	8
Increase in receipts	8
New DWs - takes time to train and become productive	8
Senior attorney adviser authority to adjudicate cases stopped	8
Computer/systems problems	7
Agency focus on quantity at the cost of quality	6
Aged cases developed new issues that had to be addressed	5
Lack of accountability	4
Lots of cases transferred in from other regions	4
More denials	4
Screening cases to send out for assistance took supervisors' time	4
ALJs stopped doing bench decisions	3
Lack of trust between staff/ALJs/management	3
Micro-management	3
More continuing disability reviews	3
Stopped promoting senior attorney advisers	3

**Table C–2: What Has Helped DW Productivity**

Issue	Total Responses
Managers had been fair in assigning cases and balancing workloads	21
Most attorney advisers met the DW Productivity Index (DWPI) threshold	16
Performance management was being done for low performers	15
DWPI helped improve productivity	4
Telework had not affected productivity	2

**Table C–3: Issues that Have Affected DW Productivity**

Issue	Total Responses
Decreased morale – DWs had no opportunities, no reward for doing well	20
Case assignments were not fair	15
DWPI did not fairly account for all cases or non-writing time	15
DWs lowered productivity to threshold when DWPI came out	9
Cases that were easier or had good instructions were sent out for assistance - office left with more difficult cases	6
Assigning cases should consider case size and complexity	6
Cases pulled badly or not worked up well	5
Agency focused on quantity over quality	5
Senior attorney advisers' duties (reviewing cases, training, mentoring, etc.) took time away from production	4
DWs under pressure	3
No production standards for senior attorney advisers	3
DW benchmarks did not account for non-work time	2
DWPI - performance management might backfire if not careful - may lose DWs and make backlogs worse	2
DWPI was challenging to implement	2

**Table C–4: Tools and Initiatives that Helped Decision-writing**

Issue	Total Responses
Findings Integrated Templates (FIT) being updated or work well as is	33
Online access to research regulations, policy manuals, etc.	20
Fully Favorable updated template has helped	16
Senior attorney advisers and other DWs (advice, sharing texts or examples, or regular meetings as a group)	16
Training and Advanced Refresher training	14
Decision Writing Instructions	8
Dragon (speech recognition software)	7
INSIGHT (flags potential policy-compliant errors in decisions)	4
Details for DWs	2

**Table C–5: Tools and Initiatives that Have Not Helped Decision-writing**

Issue	Total Responses
Hearing reporter transcripts were not always accurate	7
Fully favorable updated template did not help	5
FIT templates were not up to date	5
Quality process - too much focus on irrelevant issues	2

**Table C–6: What Has Worked to Address Backlogs**

Issue	Total Responses
Moving cases around offices, based on need and staff availability	21
Overtime	15
Regional office had a good relationship with hearing offices	14
Fully favorable pushes had been helpful	11
Good communication between management and staff	9
Pre-hearing conferences were helpful	9
Regional office monitored work and benchmarks	9
Stock texts	8
Training and mentoring	7
Managers write	5
Telework helped	5
5-day rule helped	4
ALJs write some cases	4
More DWs	3
Claimant representative outreach	2
Daily or small assignments to DWs	2
Knowing your own productivity	2
Management limits what ALJ can request from DW	2
Performance management	2
Screen cases for potential fast tracking	2

**Table C–7: What Has Not Worked to Address Backlogs**

Issue	Total Responses
Fully favorable pushes had not been good or helpful in long run	23
Regional Office - bad relationship	8
Training was not helpful	2

**Table C-8: Suggestions to Address Backlogs**

Issue	Total Responses
More DWs	31
Standardized or streamlined instructions and mandate use	27
Guidance on what is required and allowed in decisions	12
Training (more, better)	12
Balance DW workloads	11
Give senior attorney advisers authority to review and sign cases	11
Encourage staff - better motivation - more opportunities	10
Move work around between offices	10
More support staff	9
Have all ALJs and management write	6
More flexible use of overtime	6
Pre-hearing conferences <sup>1</sup>	6
Screen cases for potential fast tracking	6
Hold everyone accountable	5
More senior attorney advisers	5
Open communication	5
Better computers/equipment	4
More paralegals	4
Software to remove duplicates	4
Have attorneys review/screen cases before hearings	3
Less micromanagement	3
Raise DWPI threshold	3
Team approach with ALJs and DWs	3
Update templates	3
Active human resources department	2
Clear expectations for DWs	2
Have all senior attorney advisers write	2
More bench decisions from ALJs	2
Pairing offices to help each other	2

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<sup>1</sup> SSA, 2017 Updated CARES and Anomaly Plan, p. 8.

## Appendix D– ADDITIONAL INFORMATION ON HEARING OFFICES

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In Fiscal Years (FY) 2015 through 2018, most of the offices in our review were below the national goal of 1.85 decision writers (DW) per administrative law judge (ALJ), as shown in Table D–1.

**Table D–1: Ratio of DWs to ALJs in FYs 2015 Through 2018  
in Hearing Offices Included in Review**

Hearing Office	Number of DWs per ALJ			
	2015	2016	2017	2018
Huntington, West Virginia	N/A	N/A	1.80	2.00
Birmingham, Alabama	1.26	1.56	1.47	2.25
Columbia, South Carolina	1.09	1.29	0.80	0.54
Fort Lauderdale, Florida	1.13	1.06	1.18	1.20
Cleveland, Ohio	1.07	0.82	1.50	1.35
Milwaukee, Wisconsin	1.43	1.29	1.43	1.67
Oak Park, Michigan	1.33	1.27	1.64	1.55
Orland Park, Illinois	1.30	0.83	0.86	1.31
Fort Worth, Texas	1.35	1.22	1.56	0.91
Oklahoma City, Oklahoma	1.50	1.46	1.20	1.13
San Antonio, Texas	1.11	1.16	1.00	1.21
Oakland, California	1.88	1.00	1.08	1.20
San Jose, California	1.00	1.00	1.25	1.80
San Rafael, California	1.17	1.17	1.17	1.17
<b>National – All Hearing Offices</b>	<b>1.81</b>	<b>1.68</b>	<b>1.73</b>	<b>1.70</b>

## Appendix E – AGENCY COMMENTS

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## SOCIAL SECURITY

### MEMORANDUM

Date: March 18, 2019

Refer To: S1J-3

To: Gale S. Ennis  
Inspector General

*Stephanie Hall*

From: Stephanie Hall  
Acting Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, "Decision Writer Backlog in the Office of Hearings Operations" (A-12-18-50579) -- INFORMATION

Thank you for the opportunity to review the draft report. Through increased hiring and our emphasis on accountability and oversight, we reduced the number of cases waiting for written hearing decisions for 26 consecutive months. As we follow our Compassionate And REsponsive Service plan, we expect this trend to continue.

We have submitted technical comments at the staff level.

Please let me know if we can be of further assistance. You may direct staff inquiries to Trae Sommer at (410) 965-9102.

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