

Administrative Law Judges' Appeals Council Remand Decisions

A-12-18-50290



September 2019

Office of Audit Report Summary

Objective

To determine whether the Social Security Administration (SSA) processed Appeals Council remands as a priority workload.

Background

Administrative law judges (ALJ) decided 49,579 Appeals Council remand decisions from Fiscal Years (FY) 2016 through 2018. Appeals Council remands represent the modification of a prior hearing decision often because the ALJ applied the wrong law, additional claimant or other witness testimony was needed, the claimant did not receive a fair hearing, or the ALJ decisional rationale was insufficient.

SSA's policy states that remands should be processed as a priority workload. Hearing offices are required to flag remands when they are docketed into the hearing office and assign them immediately to an ALJ for review.

To manage and track cases, hearing office employees assign status codes to cases as they move through the hearing process. SSA's *No Status Change* report has benchmarks (measured in days) to alert hearing office managers if a case stays in a status code past the benchmark number of days.

Findings

Although remands should be processed as a priority workload, SSA does not define "priority" and does not have a processing time goal for this workload. Of the 49,579 remands processed in FYs 2016 through 2018,

- 22,144 were processed in fewer than 270 days,
- 10,043 took between 270 and 360 days,
- 5,191 took between 361 and 430 days,
- 7,179 took between 431 and 595 days,
- 4,717 took between 596 and 999 days, and
- 305 took 1,000 days or longer to process.

Our sample analysis found some remands took longer to process because they were not always input immediately in the hearing offices' master docket or the remands stalled in the *Ready to Schedule*, *ALJ Review Pre-hearing*, or *ALJ Review Post-hearing* stages.

In November 2018, to address scheduling issues, SSA proposed a rule to (1) retain the right to determine how (in-person, video teleconference, or telephone) parties and witnesses appear at a hearing before an ALJ and (2) set the time and place for the hearing. Also, SSA launched a Web-based, medical-vocational expert system to allow schedulers nationwide access when they need to schedule experts for a hearing.

Recommendations

1. Define "priority" for processing the remand workload and measure the processing time pursuant to the definition.
2. Require hearing office managers to review the *Remand Case Listing* each work day and ensure staff enter remands immediately into the master docket.
3. Require hearing office managers to review the *No Status Change* report regularly to identify stalled cases and take action on the cases as necessary.

SSA agreed with the recommendations.