

November 1996

APPEALED DISABILITY CLAIMS

Despite SSA's Efforts, It Will Not Reach Backlog Reduction Goal





United States
General Accounting Office
Washington, D.C. 20548

**Health, Education, and
Human Services Division**

B-274842

November 21, 1996

The Honorable Jim Bunning
Chairman, Subcommittee on Social Security
Committee on Ways and Means
House of Representatives

Dear Mr. Chairman:

Americans who are denied benefits under the two largest federal programs providing disability benefits may appeal to the Social Security Administration's (SSA) Office of Hearings and Appeals (OHA). This office hears appeals of denied benefit claims under both of these federal programs: Disability Insurance (DI) and Supplemental Security Income (SSI). In the last decade, the number of disability cases appealed to OHA has increased by about 140 percent. Although SSA has tried to manage this increased caseload, between 1985 and 1995 its inventory of appealed cases increased from about 107,000 to almost 548,000. The processing delays resulting from this increase have created hardships for disability claimants, who often wait more than a year for a final decision on their appeal. SSA initiated its Short-Term Disability Plan (STDP) in November 1994 to reduce the number of appealed cases awaiting a decision at OHA to a manageable level by December 1996.

Given your interest in improving the disability claims process and reducing the number of appealed cases whose decisions are significantly delayed, you asked us to report on OHA's (1) progress in meeting STDP's backlog reduction and case processing goals and (2) current allowance rate for appealed cases compared with pre-STDP levels.¹ You also asked us to report on the accuracy of decisions made under STDP, which, as discussed with your office, we cannot do at this time because SSA is just now evaluating STDP's decision accuracy. After SSA completes its evaluation, we will review the results.

We developed information for this report by analyzing data on OHA workload, backlog, processing time, and allowance rate levels; examining SSA documents on STDP activities; and interviewing OHA headquarters officials responsible for developing and implementing STDP as well as officials of other SSA offices. Because of the focus of our review, we did not see the need to verify the accuracy of the data provided by SSA. Our

¹OHA reports its allowance rate as the percentage of appealed cases approved for payment.

audit work was conducted from May 1996 through September 1996 in accordance with generally accepted government auditing standards.²

Results in Brief

Although OHA has made progress in the past 8 months in reducing its inventory of appealed cases, SSA will not reach its goal of reducing this backlog to 375,000 by December 1996. SSA attributes its difficulties to start-up delays, overly optimistic projections of the number of appealed cases that would be processed, and an additional 37,500 appealed cases above what the agency expected during fiscal year 1995. SSA's analysis shows that 22 months into STDP, activities under the plan's key initiatives—expanded regional screening and prehearing conferencing activities—allowed OHA to dispose of about 66,500 more cases than it would have had STDP not been implemented. Despite OHA's increased productivity, as of August 1996 its backlog of appealed cases was 515,009—about 3 percent higher than at STDP's inception in November 1994.

Some SSA and OHA officials had expressed concern to us that STDP's aggressive goals could result in inappropriate benefit awards for some claimants and that STDP's initiatives could increase OHA's allowance rate. SSA's statistics show just the opposite. Since the plan was initiated, the allowance rate—which includes expanded screening unit and prehearing conferencing decisions—has decreased from about 75 percent in fiscal year 1994 to about 69 percent through the third quarter of fiscal year 1996. SSA has not, however, completed any analysis of the accuracy of STDP decisions or clearly established to what extent, if any, STDP has affected OHA's allowance rate. Should SSA's analysis confirm the accuracy of STDP decisions, it would demonstrate STDP's continuing value to SSA in helping to reduce OHA backlogs.

Background

The DI program provides monthly cash benefits to insured, severely disabled workers; the SSI program provides monthly cash payments to aged, blind, or disabled people whose income and resources fall below a certain threshold. Claimants under either program file an application for disability benefits with one of SSA's more than 1,300 field offices. Applications, along with supporting medical evidence, are then forwarded to state disability determination service (DDS) offices, which make the initial medical determination of eligibility in accordance with SSA's policies

²Our report, *Social Security Disability: Backlog Reduction Efforts Under Way; Significant Challenges Remain* (GAO/HEHS-96-87, July 11, 1996), discusses SSA's progress through February 1996.

and procedures. Claimants DDS examiners find ineligible have the right to appeal the decision to OHA, where cases are heard by administrative law judges (ALJ).

A steadily increasing number of appeals has caused workload pressures and processing delays for OHA. Between 1985 and 1995, appeals increased more than 140 percent, and the number of appealed cases awaiting an OHA decision grew from about 107,000 to almost 548,000. During this period, average processing time for cases appealed to OHA—measured from the date a claimant files a request for a hearing to when a decision is issued—increased 110 percent, from 167 days to 350 days. In addition, “aged” appealed cases (those taking 270 days or more for a decision) increased from 5 percent of pending appealed cases to 39 percent during the same period.

SSA has a long-term strategy—its Plan for a New Disability Claim Process—designed to address systemic problems contributing to inefficiencies in its disability programs and significantly reduce the time claimants must wait to receive a decision on their claim. STDP is SSA’s ongoing effort to achieve some reduction in OHA’s backlog of appealed cases.

SSA began STDP in November 1994 to address the backlog crisis from an agencywide perspective and establish specific goals and time frames for reducing backlogs. STDP includes 19 temporary initiatives to expedite the disability determination process and reduce OHA’s backlog from 488,000 appealed cases in October 1994 to 375,000 by December 1996.³ SSA set its backlog target to equal one and one-half times the number of appealed cases that, in OHA’s opinion, constitutes an appropriate workload for its ALJs and staff—about 250,000 appealed cases. According to OHA, the 375,000 target does not relate to any processing time or waiting time goal—it simply is a target that SSA believed was achievable at STDP’s inception.

STDP’s Expanded Regional Screening and Prehearing Conferencing Initiatives

To reach its aggressive backlog reduction goal, STDP relies heavily on a temporary reallocation of agency resources and process changes to reduce the number of appealed cases requiring an ALJ hearing. Although STDP has 19 temporary initiatives, OHA expects that its major effect will come primarily from expanding two pre-STDP initiatives to expedite the processing of appealed cases. These two initiatives—regional screening

³In this report, OHA’s backlog includes cases that OHA’s staff and ALJs are working on as well as those on which no action has been taken.

unit and prehearing conferencing activities—were designed to target for review specific kinds of appealed cases that are likely to result in ALJS’ approving the claim for payment (referred to as “allowance”). These reviews can result in possible allowance without the more costly and time-consuming process of an ALJ hearing.

Before STDP’s implementation, SSA had established screening units in each region to help alleviate OHA’s backlog. Screening unit examiners, who were not OHA staff, reviewed certain appealed cases to determine if the evidence in the case file was sufficient to permit an allowance, eliminating the need for a hearing. SSA selected most cases for review by screening unit staff by using computer-generated case profiles to identify potentially incorrect claim denials by DDS staff. SSA officials believe that such profiling of appealed cases minimizes the risk of incorrect allowances.

Under STDP, SSA expanded screening unit activities by assigning OHA attorneys to help examiners in all of SSA’s regional screening units to identify more appealed cases that could be allowed earlier in the process. According to SSA, the opportunity for screening unit examiners to discuss issues with OHA attorneys gave the examiners more insight into the adjudication process and enabled the examiners and attorneys, where appropriate, to recommend allowance in more cases.

SSA’s pre-STDP efforts to reduce the backlog of appealed cases also included implementing a prehearing conferencing process. The purpose of prehearing conferencing was to shorten processing time for appealed cases by assigning experienced OHA attorneys to review and identify appealed cases that potentially could be allowed without a formal ALJ hearing. While screening unit activities focused on reviewing evidence already in the case file, prehearing conferencing enabled attorneys to review evidence in the case file, confer with claimant representatives, conduct limited case development, and draft decisions to be reviewed and approved by ALJS.

Under STDP’s expanded prehearing conferencing initiative, OHA’s senior attorneys have been given quasi-judicial powers or the authority to issue allowance decisions without an ALJ’s involvement or approval. Under the initiative, OHA attorneys are to extensively develop the case record, which includes obtaining medical and vocational evidence, conducting conferences with claimant representatives as well as medical and vocational experts, and issuing allowance decisions. If they cannot allow the claim on the basis of their review of the evidence, the case is

scheduled for an ALJ hearing. As in the screening unit initiative, SSA relied on computer-generated case profiles to select cases to be processed under this effort. Cases were selected on the basis of their likelihood to be allowed on the record by an ALJ.⁴

STDP is scheduled to be phased out in December 1996. Although OHA has proposed that SSA extend expanded screening unit activities through December 1997, as of September 1996 SSA had made no final decision on this. Expanded prehearing conferencing, however, will remain active until June 30, 1997, when regulatory authority for senior attorneys to allow appealed cases expires. In fiscal year 1997, SSA expects to implement certain features from its ongoing efforts to redesign the disability claims process. One of the features being tested is a new decision-making position to help expedite appealed claims through the process. Like activities under STDP's expanded screening unit and prehearing conferencing initiatives, this position will enable someone other than an ALJ to review and allow some appealed cases, eliminating the need for an ALJ hearing.

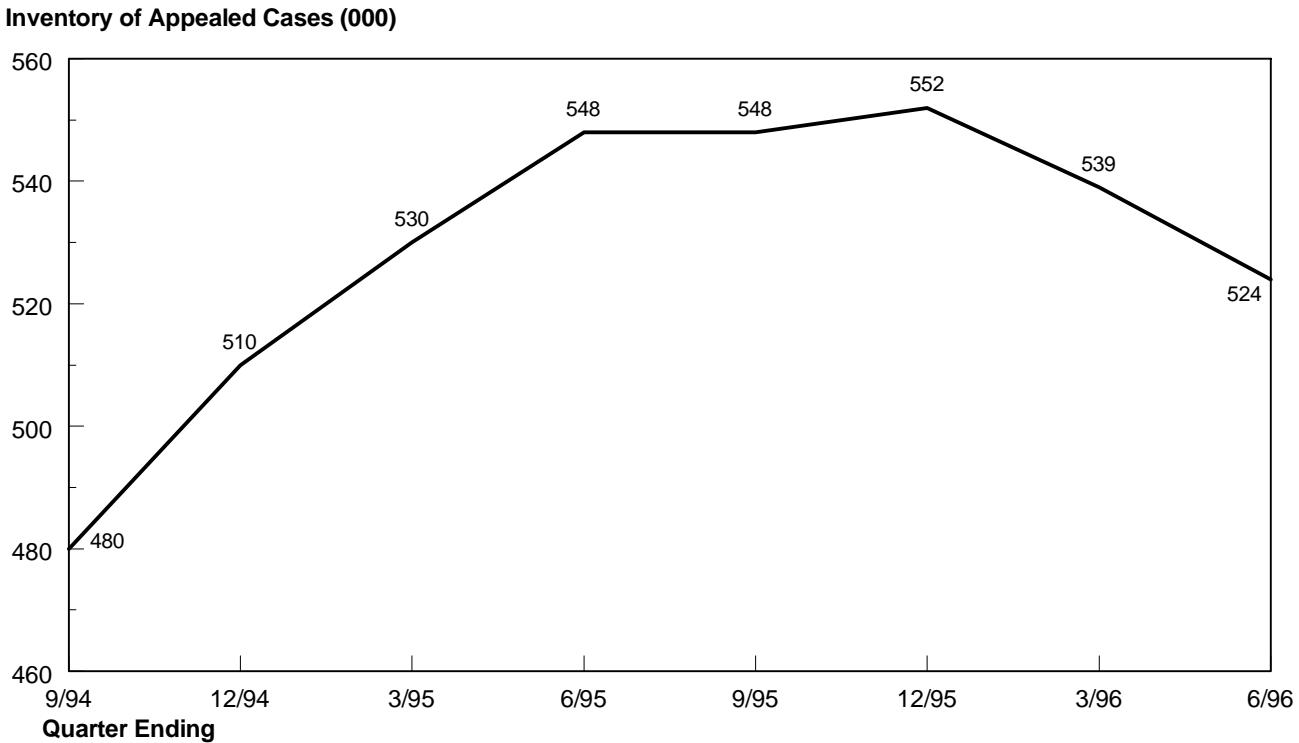
STDP's Backlog Goal Will Not Be Reached

SSA acknowledges that it will not reach STDP's goal of reducing the backlog of appealed cases to 375,000 by December 1996. In fact, OHA's backlog of about 515,000 appealed cases as of August 1996—about 22 months into STDP—was 3 percent higher than the backlog of about 500,000 that existed at the plan's inception.

Although SSA will not reach STDP's backlog reduction goal, the agency believes that the plan has helped to reduce the growth in the backlog of appealed cases awaiting a decision. Since peaking at about 552,000 in December 1995, OHA's backlog decreased steadily by an average of about 4,600 appealed cases per month through August 1996 or by about 37,000 total appealed cases. As shown in figure 1, OHA's backlog decreased during each of the last two fiscal quarters of 1996. As of August 31, 1996, the backlog was 515,009 appealed cases.

⁴On-the-record allowances, those appealed cases that can be allowed without further development, do not require an ALJ hearing.

Figure 1: OHA's Backlog Has Begun to Decrease

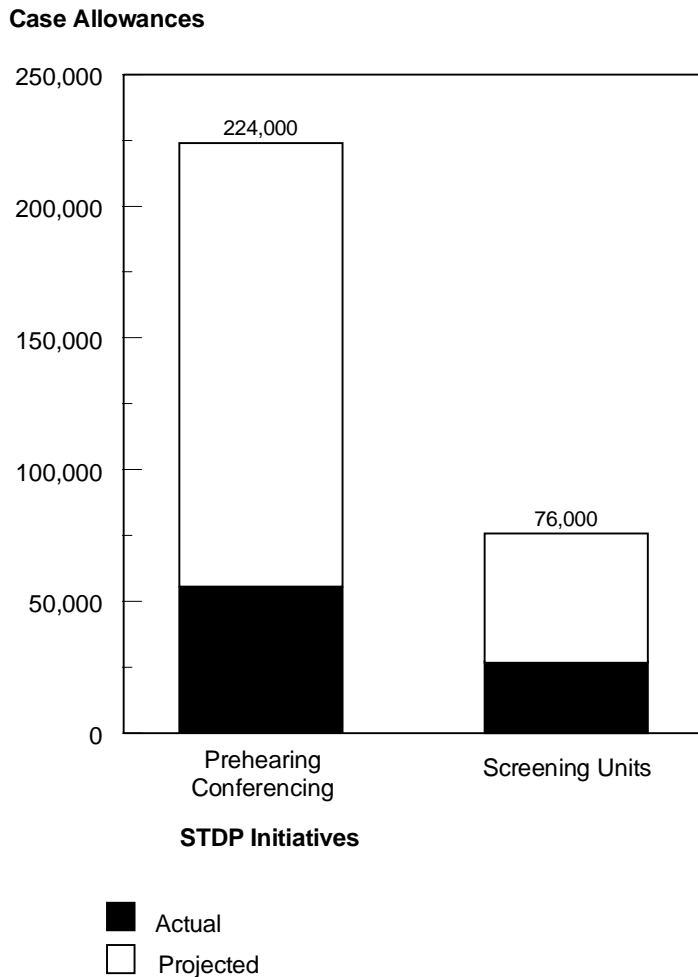


OHA's current projections indicate that its backlog of appealed cases will be approximately 498,000 at the end of calendar year 1996 or about 123,000 above STDP's target. OHA is relying on increased productivity from its ALJs and attorneys to increase its ability to dispose of cases and facilitate reaching this revised target.

Backlog Reduction Efforts Hindered by a Shortfall in STDP Allowances and an Increase in Appealed Cases

According to OHA, its inability to reach STDP's backlog reduction goal is due to start-up delays, overly optimistic projections on the number of appealed cases that could be processed, and an unexpected increase in the number of appealed cases. Figure 2 illustrates the disparity between the number of appealed cases OHA expected to allow under STDP through December 1996 and the actual number that have been allowed through August 1996—22 months since the plan was initiated.

Figure 2: STDP's Key Initiatives Have Not Reached Goals



Start-up delays associated with prehearing conferencing—the initiative expected to have the greatest impact on reducing OHA’s backlog of appealed cases—have hindered SSA’s ability to reach STDP’s goals. To implement this initiative, SSA had to seek a regulatory change to give about 600 OHA senior and supervisory staff attorneys the authority to decide certain appealed cases that were formerly limited to ALJ jurisdiction. However, the process of obtaining regulatory change and defining the specific duties and responsibilities these attorneys would have under STDP was lengthy, and implementation did not begin until July 1995—or about 6 months after the projected start-up date.

Overly optimistic allowance projections for STDP's expanded prehearing conferencing and screening unit initiatives also contributed to OHA's inability to reach the plan's backlog reduction goal. SSA initially projected that expanded prehearing conferencing would result in 224,000 allowances by senior attorneys through the 2-year period ending December 1996. However, as of August 31, 1996—or about 22 months into STDP—these attorneys had allowed only 55,363 appealed cases or about 25 percent of the projected total.⁵ The aggressive projections for this initiative were based on the results of the prehearing conferencing pilot, which OHA conducted before STDP's implementation, and the assumption that the use of profiling to select cases would result in a higher rate of cases that could be allowed without a hearing.

On the basis of the prehearing conferencing pilot, which was conducted at 19 hearing offices that agreed to participate, OHA estimated that senior attorneys would be able to allow approximately 75 percent of the appealed cases selected for their review. However, data show that between August 1995 and August 1996 senior attorneys allowed only about 24 percent of the appealed cases reviewed under STDP. According to SSA, the lower allowance rate is primarily due to senior attorneys' not conducting prehearing conferences with claimants as frequently as anticipated as well as not sufficiently developing evidence necessary to complete a claimant's case record. To increase the number of allowances under this initiative, OHA has directed its hearing offices to ensure that all senior attorneys receive training to better familiarize themselves with OHA's case development process. In addition, through directives and a series of conference calls with all its hearing offices, OHA has provided its senior attorneys with specific guidance that includes the kind of evidence that would adequately support an allowance decision.

Like STDP's prehearing conferencing initiative, expanded regional screening has not reached STDP's allowance goals. Before STDP, screening units were expected to allow about 20,000 appealed cases annually. With STDP's introduction of OHA attorneys to the process, SSA expected to allow 38,000 appealed cases annually or 76,000 over the 2 years the initiative was to be in place. In the 22 months since STDP was initiated, however, screening units had allowed a total of 26,022 appealed cases or about 34 percent of the projected total as of August 31, 1996.

⁵Between May and July 1995, 4,385 appealed cases were allowed under STDP's prehearing conferencing initiative. Although we have included those cases in the total number of appealed cases allowed under this initiative, SSA does not have data on the number of cases that senior attorneys reviewed during this period. Consequently, we cannot include these cases when determining the allowance rate for this initiative.

SSA expected that under STDP, regional screening units would allow 76,000 appealed cases or about 15 percent of those selected for review. To reach the initiative's target of 76,000 allowances, screening units would have had to review a total of about 507,000 cases. Since STDP's inception in November 1994, however, screening units had reviewed only about 258,000 cases as of August 31, 1996. According to SSA, the shortfall in the number of appealed cases processed by screening units is mainly due to SSA's reassignment of some screening unit staff to other duties.

Finally, an unexpected increase in the number of appeals also hindered OHA's efforts to reduce its backlog to STDP's goal. During fiscal year 1995, OHA received approximately 37,500 more appealed cases than it had initially projected for the year. According to OHA's staff management officer, this unanticipated workload was due primarily to an increased number of cases processed by DDS staff.

Although Goals Have Not Been Reached, STDP Has Enhanced OHA's Ability to Process Its Workload

STDP has enhanced OHA's ability to dispose of appealed cases, helped decrease the agency's decision-writing backlog, and reduced processing time for some appealed cases. OHA estimates that as of August 31, 1996, STDP had resulted in a net increase of about 66,500 dispositions. This estimate is based on time savings associated with appealed cases allowed under STDP's expanded screening unit and prehearing conferencing initiatives.⁶ To determine the net increase in dispositions attributable to STDP, OHA estimated the amount of ALJ time that could be saved through activities implemented under the plan's two key initiatives and converted these time savings into the number of additional cases that could be disposed of by ALJs in that amount of time.

OHA's estimate that the number of dispositions through August 1996 increased by about 66,500 as a result of STDP is consistent with our estimate. On the basis of our analysis of ALJ productivity before STDP, had SSA not implemented the plan, OHA would have disposed of about 68,000 fewer cases between the beginning of fiscal year 1995 and August 1996.⁷

STDP has also helped to reduce the number of appealed cases awaiting a written decision. To increase OHA's decision-writing capacity, staff from

⁶OHA estimates that, on average, each case disposed of under STDP's expanded screening unit and prehearing conferencing initiatives results in saving 1.5 hours of ALJ time; each prehearing conferencing case referred to an ALJ for a hearing results in a time savings of 1 hour. OHA estimates that, on average, ALJs spend about 3.8 hours per disposition.

⁷Our analysis assumes that the ALJ disposition rate would have remained constant at 44 dispositions per month—the average for the fiscal year preceding STDP's implementation.

various SSA offices were temporarily detailed to OHA under STDP. Efforts made under STDP helped reduce the decision-writing backlog from 40,567 decisions—its level at STDP's inception—to 20,293 as of August 31, 1996, or by about 50 percent.⁸

Finally, STDP has significantly reduced processing times for appealed cases allowed under its expanded screening unit and prehearing conferencing initiatives. On average, processing times for screening unit examiners' decisions have averaged 39 days; processing times for senior attorneys' prehearing conferencing decisions have averaged 121 days. These processing times are substantially shorter than the average monthly processing time of 264 days for similar cases decided by ALJs from May 1995 through May 1996.

OHA's Allowance Rate Has Decreased Under STDP

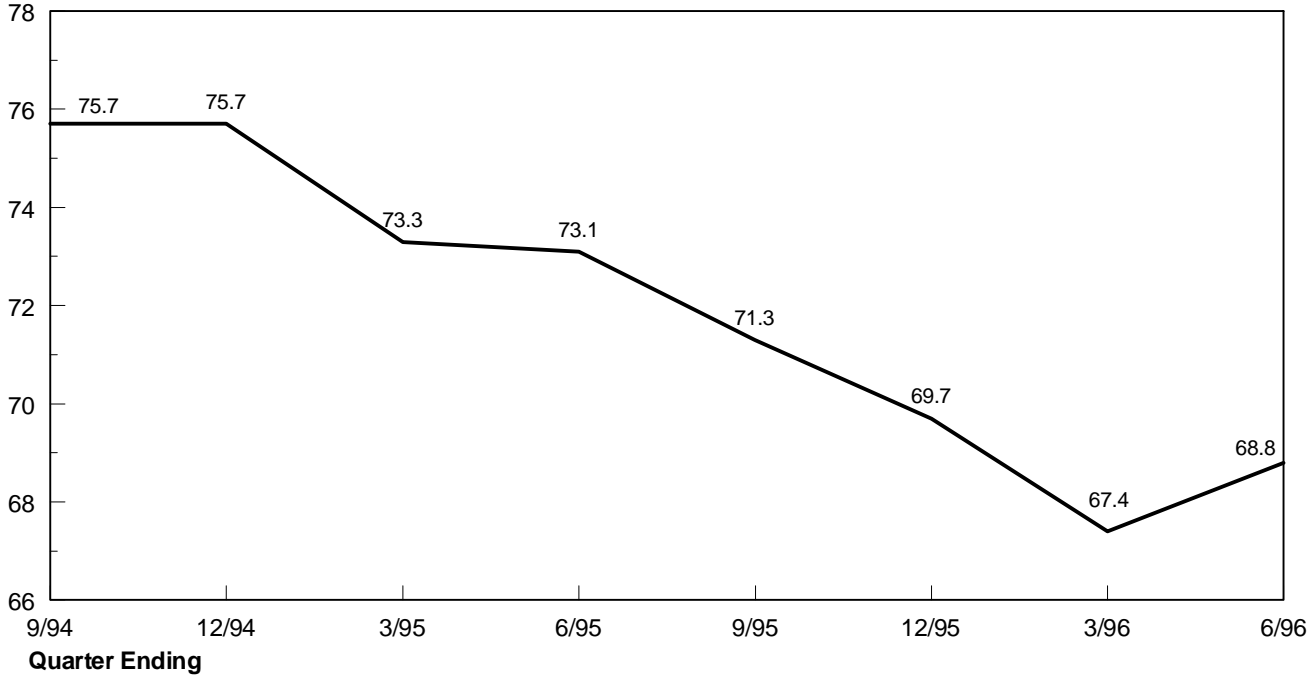
Some SSA and OHA officials had expressed concern to us that STDP's aggressive processing goals could result in inappropriate benefit awards for some disability claimants and that STDP's initiatives could cause OHA's allowance rate to increase. However, the percent of appealed cases allowed by OHA since STDP's inception has notably decreased. The allowance rate has decreased from about 75 percent in fiscal year 1994—the fiscal year preceding STDP's implementation—to about 69 percent through the third quarter of fiscal year 1996.⁹ This allowance rate reflects cases decided by ALJs as well as those decided by screening unit staff and senior attorneys under STDP. As figure 3 shows, except for the third quarter of fiscal year 1996, the allowance rate has decreased during every quarter since the beginning of 1995. SSA has not completed any analyses of factors contributing to this decrease, however.

⁸According to OHA, the appropriate caseload for its decision writers is about 15,000 cases.

⁹The allowance rate of 69 percent reflects only cases in which a decision was rendered. Its calculation does not consider cases that were dismissed. If dismissed cases were included in the calculation, the allowance rate would be about 60 percent. An ALJ may dismiss an appealed case for several reasons, including a claimant's failure to appear at a hearing without "good cause," an ALJ's determination that a claimant has no right to a hearing, or the death of the claimant.

Figure 3: OHA's Allowance Rate Has Decreased Under STDP

Percent of Appealed Cases Allowed



Conclusions

STDP is SSA's effort to achieve some reduction in what has been OHA's growing backlog of appealed cases. Recent processing trends show that STDP has helped the agency reduce the backlog, which has decreased steadily in the past 8 months. In addition, concerns that STDP could result in inappropriate allowances and that OHA's allowance rate could increase have not been substantiated.

Recommendation to the Commissioner of the Social Security Administration

SSA is evaluating the accuracy of the decisions made under STDP to help determine the advisability of continuing with the plan. Because STDP has shown that it can help reduce the backlog of appealed cases, we recommend that—if SSA determines that accurate decisions are being made—the Commissioner of the Social Security Administration extend STDP until the agency institutes a permanent process that ensures the timely and expeditious disposition of appeals.

Agency Comments and Our Evaluation

In commenting on a draft of this report, SSA agreed with our conclusions and recommendation on the conditions for extending STDP. The agency stated that it recently found the accuracy of screening unit allowances to be acceptable and has decided to extend the initiative beyond the original December 1996 expiration date. The agency also stated that it is reviewing the accuracy of prehearing conferencing allowances and will soon decide whether to extend that initiative. We also received technical comments from SSA, which we incorporated where appropriate. SSA's comments are reprinted in appendix I.

We are providing copies of this report to the Director of the Office of Management and Budget and the Commissioner of the Social Security Administration. We will also make copies available to others upon request.

Major contributors to this report are listed in appendix II. If you have any questions concerning this report or need additional information, please call me on (202) 512-7215.

Sincerely yours,



Jane L. Ross
Director, Income Security Issues

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Abbreviations

ALJ	administrative law judge
DDS	disability determination service
DI	Disability Insurance
OHA	Office of Hearings and Appeals
SSA	Social Security Administration
SSI	Supplemental Security Income
STDP	Short-Term Disability Plan

Comments From the Social Security Administration



SOCIAL SECURITY

Office of the Commissioner

November 6, 1996

Ms. Jane L. Ross, Director
Income Security Issues
U.S. General Accounting Office
Washington, D.C. 20548

Dear Ms. Ross:

Thank you for the opportunity to comment on the draft report, "Appealed Disability Claims: Despite Disposition Gains, SSA's Backlog Reduction Goal Will Not Be Achieved" (GAO/HEHS-97-28).

We agree with the report's conclusion that our Short-Term Disability Plan (STDP) has enhanced our ability to manage the unprecedented rise in the number of hearing requests filed in recent years. As noted in your report, the STDP has contributed to a steady decline in the number of pending hearing cases in recent months. This decline has continued since the time period covered by your report, as the reduction in pending hearing cases for September 1996 was over twice as much as the average reduction for the previous 8 months.

In order to achieve continued success in this area, we have decided to extend the STDP screening unit activities beyond the original December 1996 expiration date. We measured the accuracy of the screening units initially and found their accuracy to be acceptable. Regarding our STDP prehearing conferencing activities, we are reviewing the accuracy of their results, and will soon decide whether to extend them. And, as you know, we are now implementing a redesigned disability determination process. We believe this long-term solution will significantly reduce the time required to process disability cases through the hearing stage.

Enclosed are our specific comments on the report. If you have any questions, please call me or have your staff contact Mark Welch at (410) 965-0374.

Sincerely,

Shirley S. Chater
Shirley S. Chater
Commissioner
of Social Security

Enclosure

SOCIAL SECURITY ADMINISTRATION BALTIMORE MD 21235-0001

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