



SOCIAL SECURITY  
Office of the Inspector General

July 14, 2010

The Honorable Earl Pomeroy  
Chairman, Subcommittee on  
Social Security  
Committee on Ways and Means  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Pomeroy:

During a March 24, 2009 hearing on eliminating the Social Security disability backlog, Congress asked what the Social Security Administration had done to streamline the disability claims process. Based on this inquiry, we initiated this review to highlight several initiatives the Agency implemented to address changes in society.

Thank you for the opportunity to provide the Committee with this information. To ensure the Agency is aware of the information provided to your office, we are forwarding a copy of this report to the Agency. I have also sent a similar response to Ranking Member Sam Johnson.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick P. O'Carroll, Jr." with a stylized flourish at the end.

Patrick P. O'Carroll, Jr.  
Inspector General

Enclosure

cc:  
Michael J. Astrue



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# ***CONGRESSIONAL RESPONSE REPORT***

## ***The Social Security Administration's Disability Programs and Changes in Society***

**A-01-09-19028**



**July 2010**

## Mission

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

## Authority

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

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

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

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

## Vision

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

# Executive Summary

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## OBJECTIVE

To determine how the Social Security Administration (SSA) modified the disability programs in response to changes that had taken place in society since 1980.

## BACKGROUND

SSA provides Disability Insurance and Supplemental Security Income disability benefits to eligible individuals under Titles II and XVI of the *Social Security Act* (Act). An adult is considered disabled under the Act if he or she is unable to engage in substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or has lasted, or can be expected to last, for a continuous period of not less than 12 months.

During a March 24, 2009 hearing on eliminating the Social Security disability backlog, Congress asked what SSA had done to streamline the disability claims process.

## RESULTS OF REVIEW

SSA implemented several initiatives in response to changes that have taken place in society since 1980. For example, the Agency has updated its Listing of Impairments (Listings) to reflect changes in medicine and assistive technology and developed a new process to keep the Listings updated. The Agency has also begun developing a new Occupational Information System that, unlike the current system, will include up-to-date information on jobs that exist in the national economy. Additionally, SSA has been pursuing the use of technology in its disability claims process to address the increasing disability workloads.

## CONCLUSION

Although the Agency implemented many initiatives in response to the changes that have taken place in our society since 1980, it did not always implement them quickly because of such factors as resource limitations and matters that needed to be resolved through new legislation or regulation. Furthermore, while some initiatives worked, others did not. As a result, SSA has not been able to keep pace with all changes in society.

# Table of Contents

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	Page
<b>INTRODUCTION</b> .....	1
<b>RESULTS OF REVIEW</b> .....	4
Medical and Technological Advances and Emerging Diseases .....	4
Shift in Jobs that Exist in the National Economy .....	5
General Increase in the Number of Disability Claims and Beneficiaries.....	6
• Eliminate the Hearings Backlog and Prevent its Recurrence .....	6
• Improve the Speed and Quality of the Disability Process .....	8
• Preserve the Public’s Trust in the Social Security Administration’s Programs.....	12
<b>CONCLUSION</b> .....	14
<b>OTHER MATTERS</b> .....	15
<b>APPENDICES</b>	
<b>APPENDIX A</b> – Acronyms	
<b>APPENDIX B</b> – The Social Security Administration’s Processes for Evaluating Disability in Adults and Children	
<b>APPENDIX C</b> – The Social Security Disability Claims Process	
<b>APPENDIX D</b> – Scope and Methodology	
<b>APPENDIX E</b> – Prior Office of the Inspector General Reports	
<b>APPENDIX F</b> – Work Incentives	

## OBJECTIVE

To determine how the Social Security Administration (SSA) modified the disability programs in response to changes that had taken place in society since 1980.

## BACKGROUND

SSA provides Disability Insurance (DI) and Supplemental Security Income (SSI) disability benefits to eligible individuals under Titles II and XVI of the *Social Security Act* (Act).<sup>1</sup> An adult is considered disabled under the Act if he or she is unable to engage in substantial gainful activity (SGA) by reason of a medically determinable physical or mental impairment that can be expected to result in death or has lasted, or can be expected to last, for a continuous period of not less than 12 months.<sup>2</sup>

To determine whether an adult is disabled, SSA's regulations provide a five-step sequential evaluation process, based on the statutory definition of disability.<sup>3</sup> SSA's regulations also provide a similar sequential evaluation process with three steps for evaluating disability in children.<sup>4</sup> For more information on both processes, see Appendix B.

To receive disability benefits, an individual must first file a claim with SSA. An SSA field office then determines whether the individual is performing SGA and whether he or she meets the non-disability criteria for benefits,<sup>5</sup> and if so, generally forwards the claim to the disability determination services (DDS) in the State or other responsible jurisdiction in accordance with the Act and Federal regulations for a disability determination. Once

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<sup>1</sup> The Act §§ 223 *et seq.* and 1611 *et seq.*, 42 U.S.C. §§ 423 *et seq.* and 1382 *et seq.*

<sup>2</sup> The Act §§ 216(i)(1), 223(d)(1)(A), and 1614(a)(3)(A); 42 U.S.C. §§ 416(i)(1), 423 (d)(1)(A), and 1382c(a)(3)(A). See also 20 C.F.R. §§ 404.1505 and 416.905. A child is considered to be disabled for SSI purposes under the Act if he or she has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or, which has lasted, or can be expected to last, for a continuous period of not less than 12 months. The Act § 1614(a)(3)(C)(i), 42 U.S.C. § 1382c(a)(3)(C)(i). See also 20 C.F.R. § 416.906. The Act also provides a separate definition of blindness for adults and children.

<sup>3</sup> 20 C.F.R. §§ 404.1520 and 416.920.

<sup>4</sup> 20 C.F.R. § 416.924.

<sup>5</sup> For DI benefits, the non-disability criteria include such factors as insured status, which has not changed over the past 30 years. For SSI payments, the non-disability criteria include such factors as limited income and resources.

the DDS makes a determination, it sends the claim to an SSA office for final processing or to a Disability Quality Branch for review before final processing.<sup>6</sup>

Claimants who disagree with the initial disability determination can file an appeal within 60 days from the date they are notified of the determination. In most cases, there are three levels of administrative review that an individual may request: (1) reconsideration by the DDS, (2) hearing by an administrative law judge (ALJ), and (3) review by the Appeals Council. After completing the administrative review process, dissatisfied claimants may appeal to the Federal Courts.<sup>7</sup> (See Appendix C for details about the role each component plays in SSA's disability claims process.)

The DI program was enacted in the 1950s, and the SSI program was enacted in the 1970s. Since 1980, the definition of disability for adults under the Act has remained the same, even though our society has changed in many ways. Examples follow.

- Many new forms of medical treatment (such as brain tissue transplant surgery), diagnostic tests (such as magnetic resonance imaging), and assistive technology (such as a computer screen reader) have been developed. In addition, new diseases have emerged, such as the human immunodeficiency virus (HIV).
- White collar and service-type jobs have increased while blue collar jobs have decreased, and many blue collar jobs require more technological knowledge, such as the use of computers and other devices.
- The number of people applying for and receiving disability benefits has generally increased each year.

During a March 24, 2009 hearing on eliminating the Social Security disability backlog, Congress asked what SSA had done to streamline the disability claims process.<sup>8</sup> Based on this inquiry, we initiated this review to highlight several initiatives the Agency implemented to address changes that had taken place in society since 1980.<sup>9</sup>

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<sup>6</sup> By statute, the Disability Quality Branches review half of all allowances, which are selected by a predictive model. Disability Quality Branches also perform a quality assurance review on 70 initial allowances and 70 initial denials per State per calendar quarter. This sample ensures statistically valid findings for all DDSs irrespective of size. For each review, a Federal quality reviewer determines whether the record supports the DDS' determination and whether the evidence and determination conform to SSA's policies and procedures.

<sup>7</sup> The reconsideration step of the administrative review process is eliminated for DDSs participating in the Disability Redesign Prototype (Alabama, Alaska, California (Los Angeles North and Los Angeles West Branches), Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York, and Pennsylvania).

<sup>8</sup> A transcript can be found at <http://waysandmeans.house.gov/Hearings/transcript.aspx?NewsID=10382>.

<sup>9</sup> In 2006, SSA published a report that provided a detailed history of its disability programs under Title II and briefly mentioned the Agency's disability program under Title XVI. SSA, *Social Security and the "D" in OASDI: The History of a Federal Program Insuring Earners Against Disability*, Social Security Bulletin, Volume 66, No. 3, August 2006.

To perform this review, we gathered and reviewed information on SSA's disability programs, disability-related issues, and changes in our society. (See Appendix D for more information on our scope and methodology.)

# Results of Review

In response to changes that have taken place in society since 1980, SSA implemented various initiatives, such as those shown in Table 1.

<b>Change in Society</b>	<b>Initiative</b>
Medical and technological advances and emerging diseases	Update the Listing of Impairments (Listings) and Keep Them Updated
Shift in jobs that exist in the national economy	Develop a new Occupational Information System
General increase in the number of disability claims and beneficiaries	Eliminate the Hearings Backlog and Prevent Its Recurrence  Improve the Speed and Quality of the Disability Process  Preserve the Public's Trust in SSA's Programs

## **MEDICAL AND TECHNOLOGICAL ADVANCES AND EMERGING DISEASES**

Since the establishment of the disability programs, SSA used the Listings to assist in determining whether an individual is disabled. The Listings are regulations that describe impairments considered severe enough to prevent an adult from performing any SGA.<sup>10</sup> It includes information on diagnoses, laboratory findings (including acceptable diagnostic tests), symptoms, signs, and functional limitations, including the potential effects of prescribed treatments and assistive technology on functional capacity.

All disability claimants who are not performing SGA and have severe impairments are screened against the Listings to more quickly identify individuals who clearly meet the definition of disability. If the claim is not allowed based solely on the medical assessment, the Agency makes a disability determination based on a vocational assessment of the claimant's ability to do past relevant work, and if necessary, the claimant's ability to do any other work in the national economy, considering his or her age, education, and work experience. Quick identification of obvious allowance cases permits SSA to avoid time-consuming and resource-intensive inquiries into all the facts of many cases.

<sup>10</sup> The Listings also describe impairments considered severe enough to cause a child to have marked and severe functional limitations.

Periodically, SSA updated its Listings to reflect the development of new forms of medical treatment, diagnostic tests, assistive technology, and diseases. However, in our August 2000 review, we found that SSA had not updated some Listings to reflect changes in medicine and assistive technology in over 10 years.<sup>11</sup> As a result, the Listings may not have been as effective in determining disability during this time as it had been in past. In our March 2009 review, *The Social Security Administration's Listing of Impairments* (A-01-08-18023), we found that SSA had made progress in updating the Listings and expected to finish by mid-2010. We also found that SSA had implemented a new process to keep the Listings updated at least once every 5 years.

Under this new process, the Agency conducts a case study within 1 year of newly published Listings and determines whether an action is necessary—such as training, formal instructions, or a new or revised regulation. If no action is needed, SSA will continue to monitor the Listings, conduct another case study 4 years before the Listings expires, and begin updating the Listings.

## **SHIFT IN JOBS THAT EXIST IN THE NATIONAL ECONOMY**

Since the establishment of the disability programs, SSA has considered vocational factors (age, education, and past work experience) in disability determinations that could not be based on medical factors alone. In these cases, SSA first determines whether the claimant can do past relevant work and,<sup>12</sup> if not, whether he or she can do any other work considering all the vocational factors. Any other work the claimant can do must exist in significant numbers in the national economy (either in the region where the individual lives or in several regions in the country).

When considering all the vocational factors in a case, SSA refers to its Medical-Vocational Guidelines, which consist of a set of rules that reflect specific criteria for each factor. These rules also reflect the existence of unskilled jobs in the national economy. When all the factors coincide exactly with a particular rule, the rule dictates a decision of disabled or not disabled. When one or more factors do not coincide exactly with a particular rule, the rules are used as guidance for determining whether a person is disabled.<sup>13</sup>

Over the years, SSA has relied on the Department of Labor's *Dictionary of Occupational Titles* (DOT) as its main source of information about the requirements of jobs that exist

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<sup>11</sup> SSA, Office of the Inspector General (OIG), *Status of the Social Security Administration's Updates to the Medical Listings* (A-01-99-21009), August 2000. For more information on this review and others mentioned later in this report, see Appendix E.

<sup>12</sup> SSA generally defines past relevant work as any SGA the claimant performed in the past 15 years that lasted long enough for him or her to have learned to do the work. 20 C.F.R. §§ 404.1560(b) and 416.960(b). See also SSA, Program Operations Manual System (POMS), DI 25001.001 B 60 and 65. This definition has remained the same for about 30 years.

<sup>13</sup> 20 C.F.R. §§ 404.1569 and 416.969. See also SSA, POMS, DI 25025.005.

in the national economy.<sup>14</sup> Although the DOT was not specifically designed for SSA's disability programs, it came closer to meeting SSA's legal and program requirements than any other occupational information resource that existed in the 1960s.

While minor revisions were made in 1991, the DOT's last major revision was in 1977, and the Department of Labor has no plans to update it again—even though the jobs that exist in the national economy have significantly changed since then.<sup>15</sup> For example, such jobs as Web designers did not exist until after the 1970s. Conversely, some common jobs in the 1970s have dramatically declined, such as gas station attendants who have been replaced by self-service gas stations. Therefore, the DOT may not be as reliable a source of occupational information for determining disability as it was in the past. In December 2008, the Commissioner of Social Security established the Occupational Information Development Advisory Panel to provide—within 2 years—recommendations for developing a replacement for the DOT that meets all the Agency's needs and can be continuously updated.<sup>16</sup>

## **GENERAL INCREASE IN THE NUMBER OF DISABILITY CLAIMS AND BENEFICIARIES**

Since 1980, the number of disability claims and beneficiaries generally increased each year. To address these increasing workloads, SSA has implemented a number of initiatives, all of which fall under three of the Agency's current strategic goals: eliminate the hearings backlog and prevent its recurrence, improve the speed and quality of the disability process, and preserve the public's trust in SSA's programs.<sup>17</sup>

### **Eliminate the Hearings Backlog and Prevent its Recurrence**

At the end of Fiscal Year (FY) 2001, SSA's pending hearings workload was 392,387 cases. By the end of August 2009, it had grown to about 734,000 cases.<sup>18</sup> At the same time, the average processing time at the hearings level increased from 293 to 493 days.

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<sup>14</sup> U.S. Department of Labor, *Dictionary of Occupational Titles*, Fourth Ed. (1991), available at: <http://www.oalj.dol.gov/LIBDOT.HTM>.

<sup>15</sup> See United States Department of Labor, *Dictionary of Occupational Titles*, Fourth Edition, Revised 1991, available at: <http://www.oalj.dol.gov/libdot.htm>; see also SSA, Occupational Information Development Advisory Panel, *Content Model and Classification Recommendations for the Social Security Administration Occupational Information System*, available at: <http://www.socialsecurity.gov/oidap/Documents/Occupational%20Information%20Development%20Advisory%20Panel.pdf>, at page 21.

<sup>16</sup> For more information on the Advisory Panel, see <http://www.socialsecurity.gov/oidap/>.

<sup>17</sup> SSA, *Strategic Plan, Fiscal Years 2008-2013*, September 2008.

<sup>18</sup> This workload increased as the number of disability claims increased.

In his May 23, 2007 testimony to Congress, the Commissioner of Social Security announced a plan to eliminate the backlog of hearing requests by 2013 and prevent its recurrence. The Commissioner's plan focused on a number of initiatives, such as (1) improving hearing office procedures, (2) increasing adjudicatory capacity, and (3) increasing efficiency with automation and improved business processes.

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### **Improve Hearing Office Procedures**

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SSA has two initiatives in place to improve hearing office procedures: reduction of aged cases and adjudication of cases by Senior Attorneys. Under the aged case initiative, SSA focused on eliminating cases 1,000 days or older in FY 2007, 900 days or older in FY 2008, 850 days or older in FY 2009, and 825 days or older in FY 2010. As a result of this initiative, SSA will continue processing the oldest cases first at the hearings level. Under the Senior Attorney initiative, which was implemented in August 2007, SSA provides certain attorney advisors the authority to make fully favorable decisions. This reserves ALJ resources for conducting hearings on more complex cases. From FY 2008 through March 2010, Senior Attorneys had issued over 86,000 favorable decisions.

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### **Increase Adjudicatory Capacity**

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SSA has seven initiatives aimed at increasing adjudicatory capacity, including DDS Informal Remands and hiring new staff. Under the DDS Informal Remand initiative, which was implemented in June 2007, the Office of Disability Adjudication and Review (ODAR) selects cases based on certain profiles and returns them to the DDS to determine whether a fully favorable determination can be made. As a result of this initiative, DDSs allowed almost 16,000 remanded claims in FY 2008 and over 14,000 in FY 2009. Under the hiring initiative, SSA hired ODAR staff using funds provided by SSA's FY 2009 appropriation and the *American Recovery and Reinvestment Act of 2009* (ARRA).<sup>19</sup>

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### **Increase Efficiency with Automation and Improved Business Process**

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At the beginning of FY 2009, SSA had 27 initiatives related to automation and business processes. One initiative was an electronic file assembly process called ePulling. This initiative, which was piloted in five hearing offices, involved the development of customized software to identify, classify, and sort page-level data; reorganize the images after classification; and identify duplicates. In our June 2009 review, *Electronic File Assembly* (A-07-09-19069), we found that ODAR was facing challenges with the accuracy of the ePulling software, which was increasing case preparation time. We also found that ODAR needed to establish a sufficient methodology for measuring ePulling's impact on the hearings process, which was critical to future decisions on expanding the use of ePulling to other hearing offices. During our review, SSA arranged for Booz Allen Hamilton to develop an assessment methodology to measure the success of the ePulling initiative including the impact on hearing office productivity. We recommended

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<sup>19</sup> Pub. L. No. 111-5, Division A, Title VIII. In December 2009, we conducted a review, *The Office of Disability Adjudication and Review's Staffing Plans Under the American Recovery and Reinvestment Act* (A-12-09-29140), in which we assessed ODAR's staffing plans funded by ARRA.

that SSA include additional procedures in the assessment methodology, with which SSA agreed. In July 2009, SSA found that ePulling had not resulted in improved efficiency and terminated the pilot.

Another initiative is expanding the use of video equipment at hearings to increase ALJ productivity and decrease ALJ travel. This video initiative also includes a Representative Video Project, which will allow claimant representatives to use their equipment to participate in hearings from their own offices.<sup>20</sup> According to SSA, in FY 2009, the Agency spent approximately \$13 million in ARRA funds in information technology that includes video conference equipment for hearings and workstations.

### **Improve the Speed and Quality of the Disability Process**

Since the 1980s, the number of initial disability claims has generally increased—sometimes significantly—each year. Because of the combined effects of the aging of the baby boomers and the deterioration of the economy, the number of initial disability claims increased about 15 percent in FY 2009 and almost 8 percent in FY 2010 (through March). This is the highest level of receipts the Agency has ever experienced. Along with increased receipts, some DDSs are facing high attrition rates, hiring freezes, and employee furloughs, all of which impact SSA's ability to process its disability workload.<sup>21</sup>

To address this situation, SSA has pursued a number of initiatives, such as (1) using technology in the disability claims process, (2) Military Service Casualty Cases (MSCC), (3) Disability Service Improvement (DSI)—including Quick Disability Determinations, (4) Compassionate Allowances, (5) Disability Redesign, and (6) hiring more staff. SSA is also developing a multi-year plan to reduce the initial disability claims backlog to pre-recession levels.<sup>22</sup>

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#### **Use Technology in the Disability Claims Process**

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By the 1980s, the DDSs began to use computers. Gradually, working with SSA, each of the DDSs designed its own computer system to meet the unique needs of its State. In 1992, the Agency attempted to replace these systems with a single central system, the Reengineered Disability System. SSA piloted the system in its Virginia field offices and the Federal DDS in Baltimore. While SSA achieved some success in the pilot, it ran into significant performance problems.

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<sup>20</sup> We are conducting reviews on the *Use of Video Hearings to Reduce the Hearing Case Backlog* (A-05-08-18070) and *Representative Video Project* (A-05-09-19101).

<sup>21</sup> In our March 2009 review, *Impact of State Employee Furloughs on the Social Security Administration's Disability Programs* (A-01-09-29137), and our November 2009 review, *Impact of State Budget Issues on the Social Security Administration's Disability Programs* (A-01-10-11006), we reported the impact that furloughs and other DDS issues have on SSA's disability programs.

<sup>22</sup> This plan focuses on a number of initiatives, such as (1) using national resource sites located around the country to help DDSs, (2) expediting already planned hardware upgrades to maximize system performance, and (3) refining business processes to expedite case processing.

As a result, in 1999, the Agency decided to build on the strengths of the existing DDS systems, rather than replace them with a single central system. Through this approach, the Agency developed the Electronic Disability (eDIB) process, which it began implementing in FY 2004. The eDIB contains an electronic folder of all essential documentation necessary for determining disability and is accessible by all processing components. According to SSA, this process has several benefits, including improved productivity and processing times.

In 2006, SSA implemented the Findings Integrated Templates for ODAR. This tool contains approximately 2,000 templates that cover the most common decisional outcomes made by ALJs. The templates are designed to help ensure all relevant issues are properly addressed in the decision. The templates also provide guidance on how to address these issues.<sup>23</sup>

In 2006, SSA also began testing the Electronic Claims Analysis Tool (eCAT) for the DDSs. The eCAT is a Web-based application that assists disability examiners in the analysis, documentation, and adjudication of the disability claim. It guides DDS staff through the sequential evaluation process to ensure all relevant Agency policies are considered and documented when making a disability determination. It also provides links to references, such as pertinent regulations and Social Security rulings, and produces an explanation for the disability determination. To date, the Agency has reported that testing suggests eCAT may be effective in ensuring policy-compliant determinations. SSA also reports that it is useful for training. As a result, the Agency has begun implementing eCAT nationwide and expects to complete the rollout by April 2011.<sup>24</sup>

In FY 2007, the Agency considered developing a common Disability Case Processing System (DCPS) for the DDSs to position the Agency to leverage emerging technology; share workloads easily; and facilitate national implementation of policy changes. The Agency formed a Steering Committee (consisting of representatives from the regional offices, State DDSs, and Headquarters) to lead the effort. In November 2007, the Steering Committee held a summit to obtain input from the DDS community regarding the viability of developing a common DCPS. In May 2008, the DDS community overwhelmingly supported moving forward with the project. In February 2009, subject matter experts from every DDS along with representatives from the field and ODAR met and developed a "To-Be" model. In August 2009, the requirement solicitation sessions began. Using the high-level requirements that resulted from these sessions, the Agency issued a request for procurement to seek potential vendor support to design and develop the system. Currently, SSA is evaluating the proposals and expects to release a test model for this project during 2011.

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<sup>23</sup> We are assessing the impact of the templates on the accuracy and timeliness of written decisions in our review, *Office of Disability Adjudication and Review Decision-Writing Process (A-02-09-19068)*.

<sup>24</sup> We initiated a review of eCAT in FY 2010, *The Social Security Administration's Electronic Claims Analysis Tool (A-01-10-11010)*.

In FY 2008, the Agency implemented the Medical Evidence Gathering and Analysis through Health Information Technology (MEGAHIT) prototype. This computer process automatically requests and receives standardized electronic health records to support SSA's disability determination process. It then analyzes the records and sends an alert to the DDS if the claim might be an allowance according to SSA's Listings.

In August 2008, SSA began testing MEGAHIT with Beth Israel Deaconess Medical Center in the Massachusetts DDS. In February 2009, the Agency began testing MEGAHIT with MedVirginia in the Virginia DDS to obtain information from additional providers through the Nationwide Health Information Network, which connects diverse entities that need to exchange health information. According to SSA, preliminary findings indicate that approximately 12 percent of the cases processed with Health Information Technology medical information were determined within 48 hours of case assignment. SSA awarded contracts to additional health care providers in FY 2010.

Also, in FY 2010, SSA began implementing Disability Direct. This initiative is geared toward increasing the number of disability claims and appeals filed online.

- Individuals will be able to access a new online application for disability benefits, which will be easier to use than the current application and will include links, prompts, and other tools to assist them.
- Appointed representatives will be able to register online for services, such as accessing electronic folders for cases pending at the hearing level and uploading evidence to the electronic folders.
- Third parties and medical care providers will be able to provide information electronically to SSA on behalf of individuals filing for disability benefits. SSA is facing some challenges with the implementation of this part of the initiative, such as privacy issues and the authorization for releasing medical records.

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### **Military Service Casualty Cases**

In March 2004, SSA implemented the MSCC initiative, which expedites the disability claims process for wounded military service members and their families. To qualify, the military service member must have a disabling condition that began on or after October 1, 2001 while on active duty. In our December 2009 review, *Military Service Casualty Cases* (A-01-09-29056), we found that SSA processed most cases identified as MSCC in fewer days than the national average.

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### **Disability Service Improvement**

In 2006, SSA designed DSI to produce correct decisions on disability claims as early in the process as possible. DSI was expected to reduce both appeals of denied claims and future backlogs. DSI produced mixed results, and the Commissioner ultimately suspended many aspects of DSI. SSA found one aspect of DSI, Quick Disability Determinations, produced timely and accurate decisions and rolled it out nationally in FY 2008. This computer process uses a predictive model to identify claims in which it is highly

probable the claimant is disabled and the claimant's allegations can be easily and quickly verified so the claim can be processed within 20 calendar days of receipt in the DDS. In our May 2009 review, *National Rollout of Quick Disability Determinations* (A-01-09-19030), we found the process was working as SSA intended.

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### **Compassionate Allowances**

In October 2008, SSA implemented the Compassionate Allowance initiative to expedite the processing of disability claims for applicants whose medical conditions are so severe that their conditions clearly meet SSA's definition of disability. Like Quick Disability Determinations, this process uses a predictive model, but it is simpler—selecting claims based solely on the claimant's allegation of having a disease or other medical condition in the Agency's list of Compassionate Allowance conditions. SSA launched the expedited decision process with 50 conditions—25 rare diseases and 25 cancers. On February 11, 2010, the Commissioner announced that the Agency added 38 more conditions to the list of Compassionate Allowance conditions. The new conditions range from adult brain disorders to rare diseases that primarily affect children.<sup>25</sup>

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### **Disability Redesign**

In 1997, SSA began piloting a new disability claims process as part of the Disability Redesign initiative. From this pilot, the Agency identified the successful elements, including (1) using Single Decision Makers (SDM) in the DDSs, which are disability examiners who can, generally, make disability determinations without sign-off by a medical/psychological consultant<sup>26</sup> and (2) eliminating the reconsideration step of the administrative review process.

In 1999, SSA began piloting these 2 elements further in 10 Prototype States (Alabama, Alaska, California (Los Angeles North and Los Angeles West Branches), Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York, and Pennsylvania).<sup>27</sup> In FY 2010—11 years after the pilot began—the Agency selected Michigan as the first Prototype State to reinstate the reconsideration step in FY 2011. SSA decided to assess the effect of reinstating the reconsideration step as part of the disability claims process in Prototype States because allowing claims at the reconsideration level provides benefits earlier to some claimants who would otherwise wait for a hearing. Decisions about other Prototype States are still pending.<sup>28</sup> Further, on March 4, 2010, the Agency published a notice of proposed rulemaking to allow disability examiners in

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<sup>25</sup> We are conducting a review of the *Compassionate Allowance Initiative* (A-01-10-21080).

<sup>26</sup> Medical/psychological consultant refers to physicians, psychologists, psychiatrists, optometrists, podiatrists, and speech-language pathologists employed by the DDS. 20 C.F.R. §§ 404.1616 and 416.1016. See also SSA, POMS, DI 24501.001 C 2.

<sup>27</sup> Since 1999, the Agency has selected nine more States and one U.S. territory to test the use of SDMs (Florida, Guam, Kansas, Kentucky, Maine, Nevada, North Carolina, Vermont, Washington, and West Virginia).

<sup>28</sup> In April 2010, we conducted a review, *Reinstatement of the Reconsideration Step in the Michigan Disability Determination Services* (A-01-10-20153), to assess the impact of reinstating reconsiderations in the Michigan DDS.

all States to make Quick Disability Determinations and Compassionate Allowances without sign-off by a medical/psychological consultant.<sup>29</sup>

**Hire More Staff** Through funding provided by ARRA, in FY 2009, SSA hired a significant number of new front-line employees to address the increasing disability and retirement workloads. Specifically, SSA's disability and retirement operations hired 1,530 new employees in local field offices, teleservice centers, and processing centers and 300 new employees in the State DDSs.<sup>30</sup> The Agency also reported that ODAR hired 147 new ALJs and 1,322 hearing office support staff (including 506 decision writers and 392 other support staff).

Under the hiring initiative, SSA hired ODAR staff using funds provided by SSA's FY 2009 appropriation and the *American Recovery and Reinvestment Act of 2009*.<sup>31</sup>

### **Preserve the Public's Trust in SSA's Programs**

In 1980 and the first half of the 1990s, the number of disability beneficiaries dramatically increased for various reasons. To reduce the cost of this growth and ensure the quality of the disability programs, Congress amended the Act to:

- Include additional provisions designed to encourage disabled beneficiaries to return to work (such as a provision to exclude impairment-related work expenses from a beneficiary's earnings). However, a 1992 study showed that these work incentives did not lead to significant changes in earnings and benefits.<sup>32</sup> (For more information on work incentives, see Appendix F.)

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<sup>29</sup> 75 F.R. 9821 (2010).

<sup>30</sup> In November 2009, we conducted a review, *The Office of Operations' Staffing Plans Under the American Recovery and Reinvestment Act of 2009* (A-09-09-29157), to assess the Office of Operations' staffing plans funded by ARRA.

<sup>31</sup> Pub. L. No. 111-5, Division A, Title VIII. In December 2009, we conducted a review, *The Office of Disability Adjudication and Review's Staffing Plans Under the American Recovery and Reinvestment Act* (A-12-09-29140), in which we assessed ODAR's staffing plans funded by ARRA.

<sup>32</sup> SSA, *Social Security Bulletin 55(2): Disability Beneficiaries Who Work and Their Experience Under Program Work Incentives*, 1992. From 2004 to 2008, we conducted three reviews related to one of SSA's key work incentives—the Ticket to Work program: *Social Security Administration's Ticket to Work Program* (A-02-03-13079), December 2004; *Ticket To Work – Operations Support Manager for Vocational Rehabilitation Agencies and Employment Networks* (A-02-06-16017), September 2006; and *Ticket to Work and Self-Sufficiency Program Cost Effectiveness* (A-02-07-17048), August 2008.

- Require SSA to conduct continuing disability reviews (CDR) at least once every 3 years for all DI beneficiaries whose impairments were likely to improve.<sup>33</sup> However, from FYs 2003 to 2008, the Agency reduced the number of full medical CDRs it conducted by 60 percent. As a result, SSA is now facing a large backlog of CDRs.<sup>34</sup>
- Require that SSA conduct (1) pre-effectuation reviews of DDS allowances and CDR continuances to detect and correct erroneous favorable determinations before they are effectuated and (2) quality assurance reviews of DDS performance to ensure equity and uniformity in disability determinations.<sup>35</sup>

In 1996, Congress passed legislation to tighten the criteria for SSI eligibility. This legislation eliminated any reference to maladaptive behaviors in the Listings, eliminated the Individualized Functional Assessment,<sup>36</sup> and changed the definition of disability for children.<sup>37</sup>

In FY 1998, the Cooperative Disability Investigations program was established to address the integrity of the disability programs. The program's mission is to obtain evidence that can resolve questions of fraud in SSA's disability claims. The program is managed in a cooperative effort between SSA's Offices of Operations, the Inspector General, and Disability Programs. In FY 2009, the 20 Cooperative Disability Investigations units, operating in 18 States, have been responsible for over \$240 million in program savings.<sup>38</sup>

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<sup>33</sup> The Act § 221(i)(1), 42 U.S.C. § 421(i)(1).

<sup>34</sup> In March 2010, we conducted a review, *Full Medical Continuing Disability Reviews (A-07-09-29147)*, to determine the financial impact that fewer full medical CDRs had on the DI and SSI programs.

<sup>35</sup> In July 2010, SSA informed us that it conducts pre-effectuation reviews of at least half of DDS allowances and quality assurance reviews of 70 CDR continuances and a statistically valid sample of 70 initial allowances and 70 initial denials per State per quarter.

<sup>36</sup> Although this tool was eliminated, functional analysis is still a part of the process for determining disability in children.

<sup>37</sup> Before this legislation was enacted, the definition of disability for an individual under age 18 was a medically determinable physical or mental impairment(s) which met the duration requirement and was of comparable severity to that which qualifies an individual age 18 or over. Comparable severity exists, provided the child is not engaging in SGA, when the child's physical or mental impairment(s) so limits his or her ability to function independently, appropriately, and effectively in an age-appropriate manner that the impairment(s) and the limitation(s) resulting from it are comparable to those which would disable an adult.

<sup>38</sup> SSA, OIG, *Top Issues Facing Social Security Administration Management*, December 2009.

# Conclusion

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Since 1980, many changes have occurred in our society, including advances in medicine and assistive technology, emerging diseases, a shift in the jobs that exist in our national economy, and a general increase in the number of disability claims and beneficiaries each year. SSA expects this trend will continue for years to come because of the aging of the baby boomers.

In response to these changes, the Agency has implemented many initiatives. For example, SSA has updated the Listings to reflect changes in medicine and assistive technology and has developed a new process to keep the Listings updated. The Agency has also begun developing a replacement for the DOT that meets its needs regarding vocational analysis and can be continuously updated. Additionally, SSA has been pursuing the use of technology in its disability claims process to address the increasing disability workloads.

However, because of such factors as resource limitations and matters that need to be resolved through new legislation or regulation, some of these initiatives were implemented years after the changes took place in society. Furthermore, while some initiatives worked, others did not. As a result, SSA has not been able to keep pace with all changes in society.

## Other Matters

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When individuals are dissatisfied with SSA's decision on their disability claims, they may appeal to the following Federal Courts in this order: U.S. District Court, U.S. Court of Appeals (Circuit Court), and U.S. Supreme Court. The Federal Courts have the authority to dismiss, modify, affirm, or reverse the decision. Below are examples of individuals who appealed SSA's decision to the Federal Courts.

- In the early 1980s, thousands of beneficiaries lost their benefits because of a 1980 provision requiring that SSA conduct CDRs at least once every 3 years on individuals whose impairments were likely to improve. Many of these individuals appealed to the Federal Courts when they lost their benefits. In some of these cases, the Courts reversed SSA's decisions and challenged SSA's policies on the disability claims process. During this time, stories appeared in the press describing individuals who appeared to be severely disabled having their benefits terminated. Concerned about these stories and complaints from constituents, Congress mandated a top-to-bottom review of standards, policies, and procedures affecting the disability claims process, which led to a number of revisions in 1984.
- During the first half of the 1980s, Brian Zebley, a child who was denied SSI payments, filed a nationwide class action lawsuit in the U.S. District Court and appealed to the U.S. Court of Appeals for the Third Circuit challenging SSA's process for determining disability in children.<sup>39</sup> In 1988, the U.S. Court of Appeals for the Third Circuit ruled that the process for determining disability in children was more restrictive than the statutory definition of disability,<sup>40</sup> and in 1990, the U.S. Supreme Court affirmed this decision.<sup>41</sup> As a result of this ruling, SSA revised the childhood regulations and re-evaluated thousands of cases based on the new regulations.
- In June 1996, a claimant applied for Social Security DI and SSI disability benefits. She had worked as an elevator operator for 6 years until her job was eliminated in August 1995. SSA denied her claim at the initial and reconsideration levels of adjudication and she requested a hearing before an ALJ. The ALJ found that she was not under a disability because her impairments did not prevent her from performing her past work as an elevator operator. The ALJ rejected the claimant's argument that she was not able to do her past work because it no longer existed in significant numbers in the national economy. The SSA's Appeals Council denied the claimant's request for review. The United States District Court for the District of New Jersey affirmed the ALJ's findings, concluding that whether the old job exists is

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<sup>39</sup> *Zebley by Zebley v. Bowen*, 855 F.2d 67 (3d Cir. 1988).

<sup>40</sup> *Id.*

<sup>41</sup> *Sullivan v. Zebley*, 493 U.S. 521 (1990).

irrelevant under SSA's regulations. The Court of Appeals for the Third Circuit reversed and remanded the case to SSA, holding that the statute unambiguously provides that the ability to perform prior work disqualifies a claimant from benefits only if the work is “substantial gainful work which exists in the national economy.”

# *Appendices*

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## Acronyms

Act	<i>Social Security Act</i>
ALJ	Administrative Law Judge
ARRA	<i>American Recovery and Reinvestment Act of 2009</i>
CDR	Continuing Disability Review
C.F.R.	Code of Federal Regulations
DCPS	Disability Case Processing System
DDS	Disability Determination Services
DI	Disability Insurance
DOT	Dictionary of Occupational Titles
DSI	Disability Service Improvement
eCAT	Electronic Claims Analysis Tool
eDIB	Electronic Disability Process
F.R.	Federal Register
FY	Fiscal Year
Listings	Listing of Impairments
MEGAHIT	Medical Evidence Gathering and Analysis through Health Information Technology
MSCC	Military Service Casualty Cases
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
POMS	Program Operations Manual System
Pub. L. No.	Public Law Number
RFC	Residual Functional Capacity
SDM	Single Decision Maker
SGA	Substantial Gainful Activity
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

# The Social Security Administration's Processes for Evaluating Disability in Adults and Children

Under the *Social Security Act* (Act), an adult is considered disabled if he or she is unable to engage in substantial gainful activity (SGA)<sup>1</sup> by reason of a medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.<sup>2</sup>

The Social Security Administration (SSA) has a five-step sequential process for evaluating disability for adults, which generally follows the definition of disability in the Act (Chart B-1).<sup>3</sup> The steps are followed in order. If a decision about disability can be made at a step, the analysis stops, and a decision is made. If a decision about disability cannot be made, the adjudicator proceeds to the next step.

At Step 1 in the process, SSA generally considers whether the claimant is performing SGA. If the claimant is performing SGA, SSA finds that he or she is not disabled, regardless of the severity of his or her impairments. If the claimant is not performing SGA, the claim is sent for a determination of whether the claimant is disabled at a later step of the process. When the claim is initially developed, the adjudicator generally requests all the evidence needed for consideration at Steps 2 through 5 of the sequential evaluation process. The adjudication process stops when a decision regarding disability can be made at any step.<sup>4</sup>

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<sup>1</sup> 20 C.F.R. §§ 404.1572 and 416.972: SGA means the performance of significant physical and/or mental activities in work for pay or profit, or in work of a type generally performed for pay or profit. As of 2010, "countable earnings" of employees indicate SGA and "countable income" of self-employed individuals is "substantial" if the amount averages more than \$1,000 per month for non-blind individuals or \$1,640 for blind individuals. See also SSA, Program Operations Manual System, DI 10501.001 and 10501.015 B and C.

<sup>2</sup> The Act §§, Title II, 216(i)(1) and 223(d)(1)(A), 42 U.S.C. §§ 416(i)(1) and 423(d)(1)(A), and Title XVI, § 1614(a)(3)(A), 42 U.S.C § 1382c(a)(3)(A). See also 20 C.F.R. §§ 404.1505 and 416.905.

<sup>3</sup> 20 C.F.R. §§ 404.1520 and 416.920.

<sup>4</sup> If the claimant disagrees with the Agency's initial disability determination, he or she can file an appeal within 60 days from the date of notice of the determination. In most cases, there are three levels of administrative review: (1) reconsideration by the DDS, (2) hearing by an administrative law judge, and (3) request for review by the Appeals Council. If a claimant is still dissatisfied after exhausting administrative remedies, he or she can appeal to the Federal courts.

At Step 2, SSA determines whether the claimant's impairment—or combination of impairments—is severe.<sup>5</sup> If the claimant does not have a severe medically determinable impairment(s) that meets the duration requirement, the claim is denied. If the claimant has a severe medically determinable impairment(s) that meets the duration requirement, the Agency goes to Step 3 and looks to the Listing of Impairments. If the severity of the impairment meets or medically equals a specific listing and meets the duration requirement, the individual is determined to be disabled.

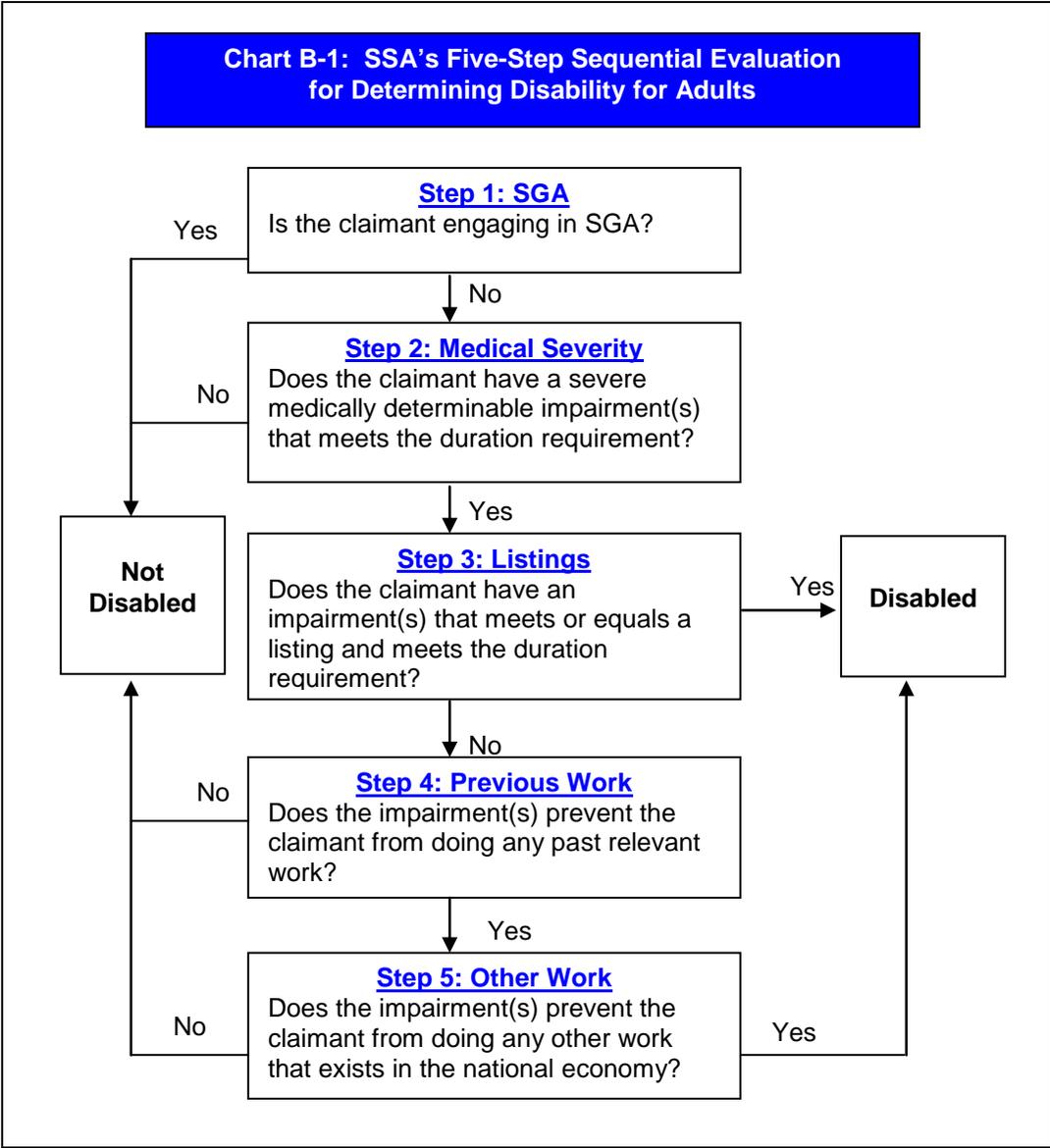
If the individual's impairment does not meet or medically equal a listing, the Agency goes to Step 4, and, if necessary, Step 5. At Step 4, the Agency determines whether the claimant can perform any past relevant work, considering his or her residual functional capacity (RFC)<sup>6</sup> and the physical and mental demands of the work he or she did. If the claimant can perform past relevant work, the claim is denied. If the claimant cannot perform past relevant work, SSA goes to Step 5 and determines whether the claimant can perform any other work that exists in the national economy, considering his or her RFC, age, education, and past work experience. If the claimant can perform any other work, then SSA finds him or her not disabled; if the claimant cannot perform any other work, SSA finds him or her disabled.<sup>7</sup>

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<sup>5</sup> 20 C.F.R. §§ 404.1520(c), 404.1521, 416.920(c) and 416.921: An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. Also, see Social Security Ruling 85-28.

<sup>6</sup> 20 C.F.R. §§ 404.1545 and 416.945: An individual's impairment(s), and any related symptoms, such as pain, may cause physical and mental limitations that affect what he or she can do in a work setting. The RFC is the most the individual can still do despite these limitations. SSA assesses RFC based on all relevant evidence in the case record.

<sup>7</sup> SSA has another sequential process for evaluating whether a disabled beneficiary's disability continues. 20 C.F.R. §§ 404.1594(f) and 416.994(b)(5). This process generally requires a showing of medical improvement related to the ability to work, but also includes steps like the ones in the initial sequential evaluation process.



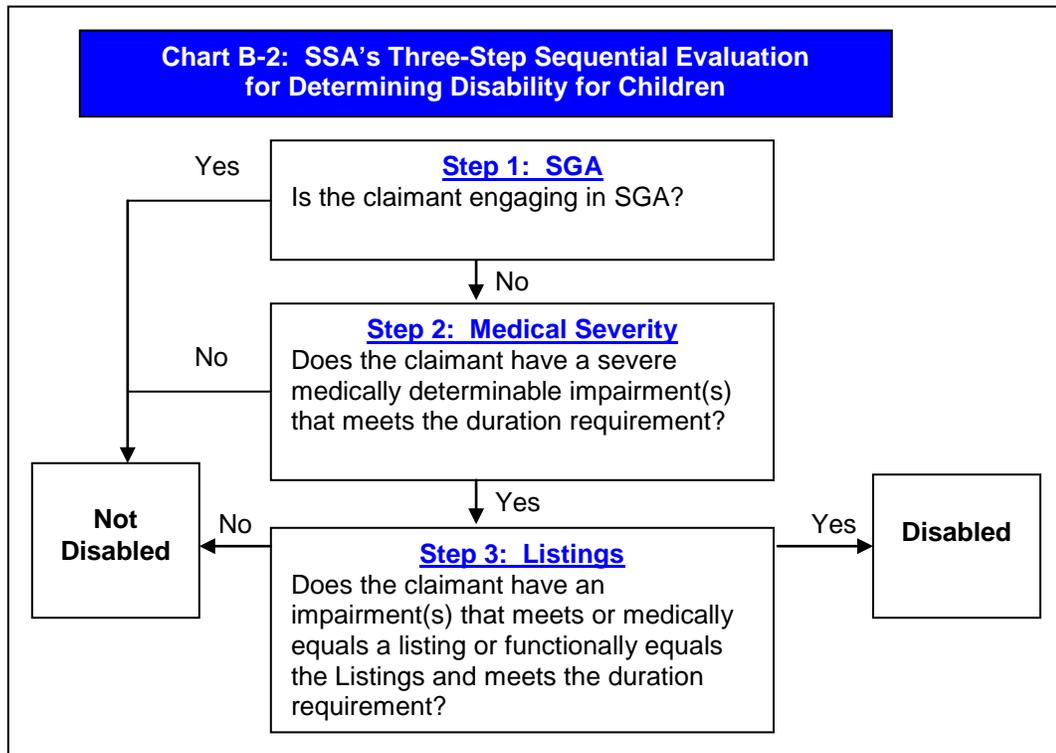
Under the Act, an individual under age 18 is considered disabled for the purposes of Supplemental Security Income (SSI) if he or she has a medically determinable physical or mental impairment or combination of impairments, which causes marked and severe functional limitations, and can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.<sup>8</sup>

As shown in Chart B-2, SSA has a similar sequential process with three steps for evaluating disability in children under SSI.<sup>9</sup> Steps 1 and 2 are the same as for adults, with “severe” defined in terms of age-appropriate childhood functioning instead of basic

<sup>8</sup> The Act, § 1614(a)(3)(C)(i), 42 U.S.C. § 1382c(a)(3)(C)(i). 20 C.F.R. §416.906.

<sup>9</sup> 20 C.F.R. § 416.924.

work-related activities. At Step 3, SSA determines whether the impairment(s) meets or medically equals a listing or functionally equals the listings and meets the duration requirement.



# The Social Security Disability Claims Process

The Social Security disability claims process begins when a person files a disability claim and does not end until the Social Security Administration (SSA) completes the claim. As a claim moves through the process, it goes through a network of components, with each component responsible for some aspect of the claim. The components involved in the process may include the field offices, Teleservice Centers, disability determination services (DDS), Disability Quality Branches, Payment Service Centers, hearing offices, Appeals Council, and Federal Courts.

### Field Office and Teleservice Center Roles

Field offices and Teleservice Centers perform similar functions. The field offices conduct business in person, over the telephone, and over the Internet while Teleservice Centers conduct business only over the telephone and Internet. The field offices and Teleservice Centers help claimants complete applications for disability benefits and requests for appeals. In addition, they determine whether the claimants are performing substantial gainful activity and meet the non-disability criteria for benefits, such as insured status (Disability Insurance program) and limited income and resources (Supplemental Security Income program). They also send the initial claim and appeal requests to the appropriate components for further processing<sup>1</sup> and may receive them back at some point for final processing.<sup>2</sup>

### DDS Role

The DDS is generally a State-run agency that, by statute, makes disability determinations for SSA. SSA reimburses the State for all the DDS expenses and has oversight of the quality of the DDS's work. At most DDSs, a disability adjudicatory team comprised of a disability examiner and medical/psychological consultant,<sup>3</sup> using SSA's regulations, policies, and procedures, obtains the relevant medical and other evidence and makes a determination whether a claimant is disabled under the *Social Security Act* (Act).

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<sup>1</sup> SSA may defer developing whether a person SSA meets the non-disability criteria until receipt of a favorable medical decision from a DDS.

<sup>2</sup> If the field office cannot process or partially processes the claim, it will send the claim to the payment service center for final processing.

<sup>3</sup> Medical/psychological consultant refers to physicians, psychologists, psychiatrists, optometrists, podiatrists, and speech-language pathologists employed by the DDS. 20 C.F.R. §§ 404.1616 and 416.1016. See also SSA, Program Operations Manual System, DI 24501.001 C 2. At DDSs that use Single Decision Makers, a disability examiner can make the disability determination in many cases without signoff by a medical/psychological consultant.

## **Disability Quality Branch Role**

SSA is required to report to Congress annually on the benefits and costs of the pre-effectuation reviews; therefore, the Disability Quality Branches review half of all DDS allowances. To ensure a high level of accuracy, the Disability Quality Branches review a statistically valid quality assurance sample of initial and reconsideration allowances and denials made per calendar quarter per State. For each review, a Federal quality reviewer determines whether the evidentiary record supports the determination and whether the evidence and determination conform to SSA's operating policies and procedures. If the Disability Quality Branch finds the DDS determination is not supported, it returns the claim to the DDS to reverse the determination or gather additional evidence.

## **Payment Service Center Role**

The Payment Service Center processes favorable hearing decisions and Appeals Council review and Federal court decisions. It also processes initial disability determinations when the field office cannot complete them, such as when the field office needs assistance in determining the amount of back payments due the claimant.

## **Hearing Office Role**

An ALJ generally conducts a hearing at a hearing office. Before the hearing, the claimant and his or her representative may examine the evidence used in making the determination under appeal and submit new evidence. At the hearing, the ALJ can question the claimant and any witnesses the claimant brings. The ALJ may request other witnesses, such as medical or vocational experts, to testify at the hearing. The claimant and his or her representative may also question the witnesses.

The ALJ does not determine whether the DDS' decision was correct but issues a new (de novo) decision based on the evidence. If the claimant waives the right to appear at the hearing, the ALJ makes a decision based on the evidence on file and any new evidence submitted for consideration.

## **Appeals Council Role**

The Appeals Council consists of administrative appeals judges and appeals officers. A claimant who is dissatisfied with the ALJ decision can ask the Appeals Council to review that decision. The Appeals Council may deny, dismiss, or grant a request for review. If the Appeals Council denies or dismisses the request for review, the ALJ's decision becomes SSA's final decision. If the Appeals Council grants the request for review, it can (1) issue its own decision affirming, modifying, or reversing the ALJ's decision or (2) remand the case to an ALJ for a new decision, additional evidence, or other additional action. If the Appeals Council issues its own decision, that decision becomes SSA's final decision. The Appeals Council may also review a case within 60 days of the ALJ's decision on its own motion; that is, without a claimant requesting the review.

## **Federal Court Role**

If a claimant is dissatisfied with SSA's final decision, he or she may file a civil action with the following Federal Courts in this order: U.S. District Court, U.S. Court of Appeals (Circuit Court), and U.S. Supreme Court. Federal Courts have the power to dismiss, affirm, modify, or reverse SSA's final decisions and may remand cases to SSA for further action including a new decision. If SSA's final decision is supported by "substantial evidence" and consistent with the Act, the court should affirm the decision.

# Scope and Methodology

To achieve our objective, we:

- Reviewed the *Social Security Act* and Social Security Administration (SSA) regulations, rules, policies, and procedures on disability case processing.
- Reviewed published materials from private sources on SSA's disability programs, issues related to disability in the United States, and changes in our society.
- Reviewed prior Office of the Inspector General reports.
- Reviewed prior Social Security Advisory Board and Government Accountability Office reports on SSA's disability programs.
- Observed the March 2009 hearing before the Committee on Ways and Means, Social Security Subcommittee and Income Security and Family Support Subcommittee of the U.S. House of Representatives.<sup>1</sup>
- Attended several meetings of the Occupational Information Development Advisory Panel.
- Met with staff from the Agency's Office of Disability Programs under the Deputy Commissioner for Retirement and Disability Policy.

We conducted our review from January through April 2010 in Boston, Massachusetts. The entities reviewed were the Offices of the Deputy Commissioners for Operations, Retirement and Disability Policy, and Systems. We conducted our review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspections*.

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<sup>1</sup> A transcript of this hearing can be found at <http://waysandmeans.house.gov/Hearings/transcript.aspx?NewsID=10382>.

### Prior Office of the Inspector General Reports

We have issued several reports related to the Social Security Administration's (SSA) disability claims process. Several of these reports are discussed below.

In August 2000 and March 2009, we issued the following reports on SSA's Listing of Impairments (Listings).

- *Status of the Social Security Administration's Updates to the Medical Listings* (A-01-99-21009). In this review, we found that SSA had not updated some Listings in over 10 years and the mental impairment Listings—which accounted for the highest percentage of new disability awards—had not had a comprehensive revision since 1985.
- *The Social Security Administration's Listing of Impairments* (A-01-08-18023). In this review, we found that SSA had made progress in updating its Listings. In January 2008, SSA officials informed the Government Accountability Office that the Agency expected to finish updating its Listings by mid-2010.<sup>1</sup> We also found that SSA had implemented a new process to keep the Listings updated at least once every 5 years. Under this process, SSA seeks input from various groups (such as medical experts and advocacy groups) and conducts reviews and case studies for each listing.

In December 2004, September 2006, and August 2008, respectively, we issued the following reports on SSA's Ticket to Work Program.

- *Social Security Administration's Ticket to Work Program* (A-02-03-13079). In this review, we found that SSA and its contractor, MAXIMUS, generally met the contract objectives we reviewed, which were established to ensure proper implementation and management of the program.<sup>2</sup>
- *Ticket to Work – Operations Support Manager for Vocational Rehabilitation Agencies and Employment Networks* (A-02-06-16017). In this review, we found that SSA met its responsibility to oversee the contract with the Operations Support Manager of MAXIMUS for the tasks we reviewed. We also found that the Operations Support Manager successfully met most of the contract objectives in the

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<sup>1</sup> Government Accountability Office, *Federal Disability Programs, More Strategic Coordination Could Help Overcome Challenges to Needed Transformation* (GAO-08-635), May 2008.

<sup>2</sup> The program provides tickets to eligible Disability Insurance and Supplemental Security Income disabled beneficiaries, which can be used to obtain vocational rehabilitation or employment services through an Employment Network or State Vocational Rehabilitation Agency.

tasks we reviewed and was properly managing and overseeing Vocational Rehabilitation Agencies and Employment Network activities.

- *Ticket to Work and Self-Sufficiency Program Cost Effectiveness (A-02-07-17048)*. In this review, we found that the Ticket to Work program appeared to have limited success in maintaining economic self-sufficiency for disabled beneficiaries. Also, the program did not produce significant savings.

In March and November 2009, respectively, we issued the following reports on the impact furloughs and other State-related issues have on SSA's disability programs.

- *Impact of State Employee Furloughs on the Social Security Administration's Disability Programs (A-01-09-29137)*. In this review, we found that furloughs of the Disability Determination Services' (DDS) employees and other issues, such as hiring freezes, slow the processing of disability claims and reduce the flow of those benefits into the economy. For example, we found that the California DDS would encounter a shortfall of capacity by 10 percent because of furlough days. As a result, we expected the processing of approximately 2,375 disability cases would be delayed each month. This would translate to about 776 allowances. Therefore, we estimated that the payment of about \$648,000 in benefits would be delayed to newly disabled claimants and from flowing into the economy on a rolling monthly basis.
- *Impact of State Budget Issues on the Social Security Administration's Disability Programs (A-01-10-11006)*. In this review, we found that State budget issues (such as furloughs of DDS employees) have slowed the processing of disability claims—despite the measures taken by SSA to address this matter. As a result of furloughs, we estimated that the processing of approximately 69,000 disability cases would be delayed over the following 12 months. This wait would result in about \$126.2 million in benefits being delayed to newly disabled claimants and from flowing into the economy. Additionally, we found that State budget cuts affected disability beneficiaries and recipients. For example, some States reduced the Supplemental Security Income State Supplemental Payments and restricted eligibility for other programs, including health care coverage.

In May 2009, we issued a report on the *National Rollout of Quick Disability Determinations (A-01-09-19030)*. In this review, we found that the Quick Disability Determination process was working as SSA intended. Specifically, the Agency allowed 93 percent of claims selected for Quick Disability Determinations and generally made medical determinations for these claims within the recommended timeframe of 20 days or fewer.

In November and December 2009, respectively, we issued the following reports on hiring staff using *American Recovery and Reinvestment Act of 2009* (ARRA) funds.<sup>3</sup>

- *The Office of Operations' Staffing Plans Under the American Recovery and Reinvestment Act* (A-09-09-29157). In this review, we found that the Office of Operations had developed an appropriate staffing plan for its \$251 million in ARRA funds that were provided for the processing of the Agency's disability and retirement workloads. However, SSA overestimated the salaries and benefits for new hires and did not disclose all training costs for these employees. Additionally, the performance measures did not identify all anticipated benefits of the ARRA funds.
- *The Office of Disability Adjudication and Review's Staffing Plans Under the American Recovery and Reinvestment Act* (A-12-09-29140). In this review, we found that the Office of Management and Budget had accepted SSA's staffing plan for its \$123 million in ARRA funds that were provided to process additional hearing workloads. However, SSA overestimated the actual cost of new hires planned for Fiscal Year (FY) 2009. In addition, the staffing plan did not provide information on a number of areas, including (1) a clear breakout of the allocation in FY 2010 and anticipated use of overtime, (2) the goals used to allocate new hires by location and skills, and (3) the key productivity measures for the hearings workload as well as factors that may affect productivity while new hires are coming onboard and being trained.

In March 2010, we issued a report on *Full Medical Continuing Disability Reviews* (A-07-09-29147).<sup>4</sup> In this review, we found that resource limitations and increases in core workloads prevented SSA from conducting full medical continuing disability reviews (CDR) when they became due. As a result, SSA estimated a backlog of over 1.5 million full medical CDRs would exist at the end of FY 2010. From Calendar Years 2005 through 2010, we estimated SSA will have made benefit payments of between \$1.3 and \$2.6 billion that could have potentially been avoided if the full medical CDRs in the backlog had been conducted when they became due. Further, although SSA plans to conduct an increased number of full medical CDRs in FY 2011, the 1.5 million full medical CDR backlog will most likely remain. Therefore, we estimated SSA will pay benefits of between \$556 million and \$1.1 billion during Calendar Year 2011 that could have potentially been avoided if the full medical CDRs in the backlog had been conducted when due.

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<sup>3</sup> ARRA, Pub. L. No. 111-5, Division A, Title VIII.

<sup>4</sup> A medical CDR is a review of a beneficiary's disabling condition to determine whether he or she continues to be disabled.

### Work Incentives

Under the Disability Insurance (DI) program, a disabled beneficiary may work as long as it is not considered substantial gainful activity (SGA). SGA means the performance of significant physical and/or mental activities in work for pay or profit, or in work of a type generally performed for pay or profit.<sup>1</sup> Under the Supplemental Security Income (SSI) program, a disability recipient may also work as long as his or her “countable earnings” are less than the income limit required for SSI eligibility.<sup>2</sup> The Social Security Administration (SSA) generally only uses SGA as a factor of SSI eligibility when initially determining whether someone is disabled.

Since establishing these programs, Congress has passed many provisions with the intent to provide disabled beneficiaries with incentives to return to work. The work incentives apply under the DI program, SSI program, or both.

#### DI Work Incentives

- **Trial Work Period:** Beneficiaries may work for 9 months within a 60-month rolling period without suffering a loss of benefits. As of 2010, a trial work month is any month in which earnings are above \$720.<sup>3</sup>
- **Extended Period of Eligibility:** This 36-month period follows the end of the trial work period. During this time, a beneficiary may receive a benefit for any month in which earnings fall below the SGA limit.<sup>4</sup>
- **Extended Medicare Coverage:** Medicare is a Federal program that provides premium-free hospital insurance and supplemental medical insurance for any disabled individual who is eligible for DI benefits (after a 24-month waiting period). With the passage of the Extended Medicare Coverage provision, when a person’s DI benefits cease due to SGA, his or her Medicare coverage may continue for at least 93 more months (or about 8 years).<sup>5</sup>

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<sup>1</sup> 20 C.F.R. §§ 404.1572 and 416.972. See also SSA, Program Operations Manual System (POMS), DI 10501.001. As of 2010, “countable earnings” of employees indicate SGA and “countable income” of self-employed individuals is “substantial” if the amount averages more than \$1,000 per month for non-blind individuals or \$1,640 for blind individuals. SSA, POMS, DI 10501.015 B and C.

<sup>2</sup> The income limit for SSI eligibility varies depending on the recipient’s circumstances. The Act §§ 1611 *et seq.* and 1614 *et seq.*, 42 U.S.C. §§ 1382 *et seq.* and 1382c *et seq.*

<sup>3</sup> The Act § 222(c), 42 U.S.C. § 422(c). See also SSA, POMS, DI 13010.060.

<sup>4</sup> The Act § 223(e), 42 U.S.C. § 423(e). See also 20 C.F.R. § 404.1592a.

<sup>5</sup> The Act § 226(b)(2), 42 U.S.C. § 426(b)(2). See also Pub. L. No. 106-170 § 202.

- **Protection from Medical Continuing Disability Reviews (CDR):** If an individual has been eligible for disability benefits for 2 years, SSA will not conduct a medical CDR for a beneficiary solely because the individual returns to work.<sup>6</sup>
- **No Waiting Period:** If a beneficiary stops receiving disability benefits because of medical recovery or SGA and becomes entitled to benefits again within the next 5 years, he or she may not have to serve the 5-month waiting period again before receiving benefits.<sup>7</sup>

## SSI Work Incentives

- **Continuation of Medicaid Eligibility:** Medicaid is a State-administered health insurance program for people with low income and resources. Most SSI disability recipients are eligible for Medicaid, which is administered by the States.<sup>8</sup> With the passage of the Continuation of Medicaid Eligibility provision, when a recipient's SSI payments stop because of earnings, his or her Medicaid coverage may continue if he or she cannot afford similar medical care and depends on Medicaid to work.<sup>9</sup>
- **Earned Income Exclusion:** SSA does not count \$65 of a recipient's monthly earned income plus one-half of the remaining earnings.<sup>10</sup>
- **Student Earned Income Exclusion:** For a recipient under age 22 who is regularly attending school, SSA excludes up to \$1,640 of earned income per month. The maximum yearly exclusion is \$6,600.<sup>11</sup>
- **Work Expenses of the Blind:** For a blind recipient who works, SSA may exclude any expense from his or her earned income that was attributable to earning that income. Some examples include income taxes, meals consumed during work hours, or transportation to and from work.<sup>12</sup>

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<sup>6</sup> The Act § 221(m)(1)(A), 42 U.S.C. § 421(m)(1)(A). A medical CDR is a review of a beneficiary's disabling condition to determine whether he or she continues to be disabled.

<sup>7</sup> The Act § 223(a)(1)(E), 42 U.S.C. § 423(a)(1)(E).

<sup>8</sup> The Act § 1843 *et seq.*, 42 U.S.C. § 1395v *et seq.*

<sup>9</sup> The Act § 1619(b), 42 U.S.C. § 1382h(b).

<sup>10</sup> 20 C.F.R. § 418.3325(b).

<sup>11</sup> The Act § 1612(b)(1), 42 U.S.C. § 1382a(b)(1). See also SSA, POMS, TC 17001.020.

<sup>12</sup> The Act § 1612(b)(4)(A), 42 U.S.C. § 1382a(b)(4)(A).

- **Plan for Achieving Self-Support:** SSA excludes a recipient's income and resources needed to obtain a specific job, vocational training, or start a business.<sup>13</sup>
- **Property Essential to Self-Support:** SSA excludes as a resource any property that is essential for a recipient's self-support, such as property used in a trade or business.<sup>14</sup>
- **Reinstating Eligibility Without a New Application:** A beneficiary does not need to file a new application to reinstate SSI payments or Medicaid coverage if he or she has been ineligible for SSI for 12 months or less.

## DI and SSI Work Incentives

- **Ticket to Work Program:** This voluntary program assists disabled beneficiaries in obtaining free employment services, vocational rehabilitation services, and other support services needed to get or keep a job. It also protects beneficiaries from receiving a medical CDR while participating in the program.<sup>15</sup>
- **Expedited Reinstatement of Benefits:** Up to 5 years after a disabled individual stops receiving benefits because of work, he or she may request benefits again without filing a new application.<sup>16</sup>
- **Impairment Related Work Expenses:** SSA excludes from earnings the cost of certain impairment related items or services that a disabled person needs to work. Some examples include medical devices and prostheses.<sup>17</sup>
- **Continued Payments under a Vocational Rehabilitation or Similar Program:** Beneficiaries who medically recover while receiving vocational rehabilitation or other support services that will likely lead to becoming self-supported may continue to receive benefits.<sup>18</sup>
- **Subsidies and Special Conditions:** Subsidies and special conditions refer to support received on the job, such as close supervision. If this support results in the beneficiary receiving more earnings than his or her services were worth, SSA will not count these additional earnings.

<sup>13</sup> The Act §§ 1612(b)(4) and 1613(a)(4), 42 U.S.C. §§ 1382a(b)(4) and 1382b(a)(4).

<sup>14</sup> The Act § 1613(a)(3), 42 U.S.C. § 1382b(a)(3).

<sup>15</sup> The Act § 1148 *et seq.*, 42 U.S.C. § 1320b-19 *et seq.*

<sup>16</sup> The Act §§ 223(i)(1) and 1631(p)(1), 42 U.S.C. §§ 423(i)(1) and 1383(p)(1).

<sup>17</sup> The Act §§ 223(d)(4)(A) and 1612(b)(4)(B), 42 U.S.C. §§ 423(d)(4)(A) and 1382a(b)(4)(B); 20 C.F.R. §§ 404.1576 and 416.976.

<sup>18</sup> The Act §§ 225(b) and 1631(a)(6), 42 U.S.C. §§ 425(b) and 1383(a)(6).

- **Unincurred Business Expenses:** SSA excludes from self-employed net earnings the value of any self-employment business support provided to a disabled person at no cost.<sup>19</sup>
- **Unsuccessful Work Attempt:** An unsuccessful work attempt is a disabled individual's effort to do substantial work that either stopped or fell below the SGA limit in 6 months or less because of the individual's disabling condition or removal of special conditions related to the disability. SSA does not consider earnings during an unsuccessful work attempt to be SGA.<sup>20</sup>

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<sup>19</sup> 20 C.F.R. §§ 404.1575(c) and 416.975(c).

<sup>20</sup> 20 C.F.R. § 404.1574(c) and 416.974(c).

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

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

### **Office of Audit**

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

### **Office of Investigations**

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### **Office of External Relations**

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

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

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