



Office *of the* Inspector General  
SOCIAL SECURITY ADMINISTRATION

*Audit Report*

Pre-effectuation Reviews of  
Favorable Hearing Decisions

*A-12-15-50015 | February 2017*

**MEMORANDUM**

**Date:** February 7, 2017

**Refer To:**

**To:** The Commissioner

**From:** Acting Inspector General

**Subject:** Pre-effectuation Reviews of Favorable Hearing Decisions (A-12-15-50015)

The attached final report presents the results of the Office of Audit's review. The objectives were to determine whether the (1) Office of Disability Adjudication and Review timely processed its pre-effectuation reviews of favorable hearing decisions and (2) Office of Operations appropriately terminated benefits for claimants whose cases were denied or dismissed in the process. We also reviewed the costs and benefits of conducting the pre-effectuation reviews.

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

  
Gale Stallworth Stone

Attachment

# Pre-effectuation Reviews of Favorable Hearing Decisions

## A-12-15-50015



February 2017

Office of Audit Report Summary

### Objective

To determine whether the (1) Office of Disability Adjudication and Review (ODAR) timely processed its pre-effectuation reviews (PER) of favorable hearing decisions and (2) Office of Operations appropriately terminated benefits for claimants whose cases were denied or dismissed in the process. We also reviewed the costs and benefits of conducting the PERs.

### Background

Since Fiscal Year (FY) 2011, ODAR's Division of Quality (DQ) has conducted PERs of randomly selected favorable hearing decisions before any payments are made to claimants. As part of the PER process, DQ can effectuate (agree with) the favorable decision; remand it for a new decision; or reverse, modify, or dismiss it. While appeals officers effectuate cases, only administrative appeal judges can remand, reverse, or dismiss a case.

When DQ selects a case for a PER, it is legally required to notify the claimant within 60 days if it intends to conduct a more extensive review.

In the last 5 years, DQ has completed about 26,200 PERs—1.4 percent of the total favorable hearing decisions issued during that time.

### Findings

DQ effectuated about four of every five cases selected for a PER in FYs 2011 through 2015 and set aside the remaining cases for additional review. In about 99 percent of the PER cases, DQ either effectuated the case or notified claimants within the required 60 days, though average processing time had steadily increased over the 5-year period.

For the PER cases (about one of every five) requiring further review, the majority was remanded to ALJs, with average processing time for remanded cases also increasing over this period. DQ managers and staff attributed the increase in remand processing time to a growing number of PER cases, DQ staff and management losses, DQ staff handling other workloads, and a lack of timeliness goals.

Of the FY 2011 cases that required further review and were subsequently denied/dismissed, the Office of Operations did not timely terminate disability benefit payments to nine of these claimants. This figure fell to four claimants in FY 2014.

Overall, about 5 percent of the total PER cases processed in FY 2011 led to a denial or dismissal. Given the rate of denials and dismissals, we estimated the potential net program savings ranged from \$23 to \$25 million for that year. Overall, the Agency saved \$4 to \$5 on average per \$1 spent on the PER process in FY 2011.

### Recommendations

1. Establish timeliness goals in DQ for PER cases requiring a more extensive review.
2. Ensure continued coordination between ODAR and Operations so that cases denied or dismissed as part of the FY 2015 and later PERs are timely ceased.
3. Create PER-related cost data to assist with any future savings calculations.
4. Consider increasing the number of PERs performed per FY and focusing on cases with a greater likelihood of denial or dismissal.

SSA agreed with the recommendations.

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## ABBREVIATIONS

AAJ	Administrative Appeals Judge
ALJ	Administrative Law Judge
APT	Average Processing Time
C.F.R.	Code of Federal Regulations
DI	Disability Insurance
DQ	Division of Quality
FY	Fiscal Year
HALLEX	Hearings, Appeals, and Litigation Law Manual
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
PER	Pre-effectuation Review
SAA	Senior Attorney Adjudicator
SSA	Social Security Administration
SSI	Supplemental Security Income

## OBJECTIVE

Our objective was to determine whether the (1) Office of Disability Adjudication and Review (ODAR) timely processed its pre-effectuation reviews (PER) of favorable hearing decisions and (2) Office of Operations appropriately terminated benefits for claimants whose cases were denied or dismissed in the process. We also reviewed the costs and benefits of conducting the PERs.

## BACKGROUND

Since Fiscal Year (FY) 2011, ODAR's Division of Quality (DQ) has conducted PERs<sup>1</sup> of randomly selected administrative law judge (ALJ) or senior attorney adjudicator (SAA) favorable hearing decisions before the Social Security Administration (SSA) makes any payments to claimants. As part of the PER process, DQ can effectuate (agree with) the favorable decision; remand it to an ALJ for a new decision; or reverse, modify, or dismiss it. While appeals officers can effectuate cases, only administrative appeal judges (AAJ) can remand, reverse, or dismiss a case. From FYs 2011 to 2015, DQ processed 26,177 PERs, representing about 1.4 percent of the total favorable decisions issued over the 5-year period (see Table 1).<sup>2</sup>

**Table 1: Favorable ALJ Decisions Reviewed (FYs 2011 Through 2015)**

FY	Total Dispositions	Number of Favorable Decisions	Number of PERs	Percent of Favorable Decisions Reviewed
2011	793,563	446,367	3,692	0.8
2012	820,484	410,766	7,007	1.7
2013	793,580	372,909	6,171	1.7
2014	680,963	299,796	4,768	1.6
2015	663,129	289,807	4,539	1.6
<b>Total</b>	<b>3,751,719</b>	<b>1,819,645</b>	<b>26,177</b>	<b>1.4</b>

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<sup>1</sup> See Appendix A for a flowchart of the PER process.

<sup>2</sup> PER cases are selected randomly and include at least 350 cases per region as well as 350 cases from the National Hearing Centers. To be selected for a PER, a case must be electronic. Some excluded cases are (1) cases from Puerto Rico, (2) critical cases, (3) continuing disability review cessations, and (4) Federal court remands. In commenting on our report, Agency officials informed us they began including Puerto Rico cases in FY 2017 PERs.

DQ must notify the claimant within 60 days of the favorable decision or dismissal that its decision is under review.<sup>3</sup> Per policy,<sup>4</sup> if the case is still pending in ODAR's PER process after 110 days, the Agency is required to start paying interim benefits. If the claimant's case is denied or dismissed after the PER process, DQ sends a notice to SSA's Office of Operations to cease disability benefit payments to the claimant,<sup>5</sup> though the Agency does not consider interim benefits already paid as overpayments.

We obtained the PER cases for FYs 2011 to 2015, calculated the average processing times (APT) for effectuated and remanded cases, and determined whether DQ met its 60-day legal requirement for notifying claimants. For the cases that were ultimately denied or dismissed, we determined whether the Agency timely ceased benefits to these claimants. We interviewed Agency managers and staff to learn more about the PER process, including processing goals, staffing, and systems capabilities. We obtained Agency budget data on the cost of the PER process and performed a cost-benefit analysis of the program.<sup>6</sup>

## RESULTS OF REVIEW

DQ effectuated about four of every five cases selected for a PER in FYs 2011 through 2015 and set aside the remaining cases for additional review. In about 99 percent of the PER cases, DQ either effectuated the case or notified claimants within the required 60 days, though APT had steadily increased over the 5-year period.

For the PER cases (about one of every five) requiring further review, the majority was remanded to ALJs, with APT for remanded cases also increasing over this period. DQ managers and staff attributed the increase in remand processing time to a growing number of PER cases, DQ staff and management losses, DQ staff handling other workloads, and a lack of timeliness goals.

Of the FY 2011 cases that required further review and were subsequently denied/dismissed, the Office of Operations did not timely terminate disability benefit payments to nine of these claimants. This figure fell to four claimants in FY 2014.

Overall, about 5 percent of the total PER cases processed in FY 2011 led to a denial or dismissal. Given the rate of denials and dismissals, we estimated the potential net program savings ranged

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<sup>3</sup> 20 C.F.R. 404.969 and 416.1469. Claimants are also provided an opportunity to submit additional supporting evidence pertaining to the claim. DQ also has an internal goal to process effectuations within 30 days, although it is not a legal requirement.

<sup>4</sup> Hearings, Appeals, and Litigation Law Manual (HALLEX) I-3-6-40—*Interim Disability Benefits in Cases of Delayed Final Decisions* ("8001" Cases) (April 1, 2016).

<sup>5</sup> Claimants have a right to appeal the PER decision.

<sup>6</sup> See Appendix B for our scope and methodology.

from \$23 to \$25 million for that year.<sup>7</sup> Overall, the Agency saved \$4 to \$5 on average per \$1 spent on the PER process in FY 2011.

## Timeliness of Effectuations

From FYs 2011 to 2015, DQ timely processed or notified the claimant in about 99 percent of the effectuated PER cases within 60 days.<sup>8</sup> These effectuations represented about 80 percent of all PERs. DQ needed more time to process these effectuations since FY 2011, though it maintained an average time that was less than 60 days. From FYs 2011 to 2015, the APT for effectuations steadily increased 79 percent, from 19 to 34 days (see Table 2).<sup>9</sup>

**Table 2: 5-Year Trend in DQ Effectuated Cases**

Category	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Percent Processed or Notified in 60 Days	99	99	100	100	100
APT for Effectuations	19 days	20 days	24 days	28 days	34 days

## Timeliness of Remanded Case Processing

From FYs 2011 to 2015, about 20 percent of the PERs resulted in DQ conducting further review, with most of these cases resulting in a remand.<sup>10</sup> For all 5 years, DQ met the 60-day legal requirement to notify these claimants when they re-opened their case for further review. We found some cases took longer than 60 days to notify the claimant because they were SAA on-the-record cases, where the analysts were using the date a hearing request was dismissed, rather than the earlier date when the case was allowed.<sup>11</sup> ODAR management stated the Agency used the later date because the case was not available for DQ review until the ALJ dismissed the hearing request.<sup>12</sup> In FY 2013, ODAR started using the allowance date for these cases.

<sup>7</sup> We used the earliest PERs from FY 2011 for the cost-benefit analysis because those cases would be least likely to have a pending appeal. We also used the FY 2011 population because the SSA Actuary's estimates of lifetime expected benefits were based on 2011.

<sup>8</sup> While the 60-day requirement applies to notifying the claimant about further action on a case and therefore almost all effectuations do not necessitate a letter, we still used 60 days as a benchmark since all cases would need to be reviewed timely to identify those that needed further action.

<sup>9</sup> DQ also had an internal goal to process all effectuations within 30 days. While DQ processed 79 percent of its effectuations within 30 days in FY 2011, this rate steadily worsened over time. By FY 2015, only 39 percent of the effectuations was processed within 30 days.

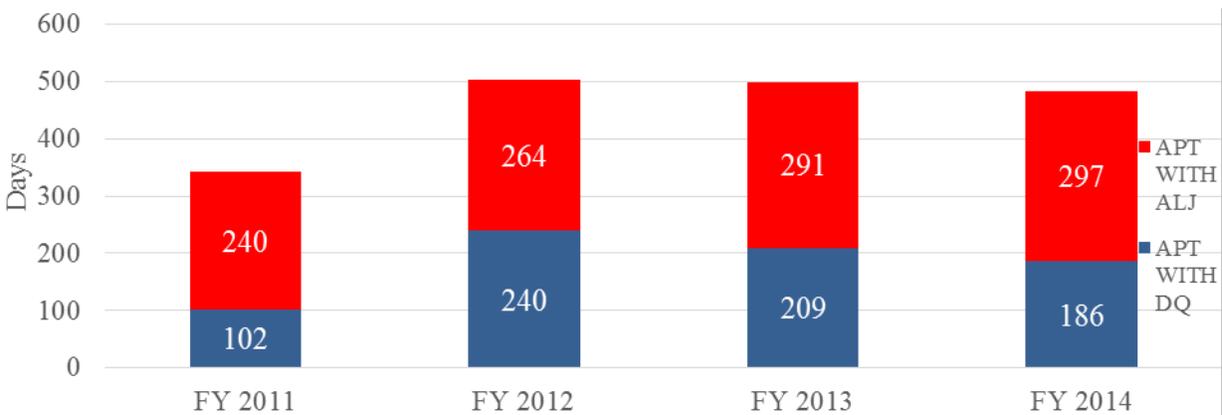
<sup>10</sup> Besides a remand order, further review can result in an AAJ issuing a decision or dismissal on the case. From FYs 2011 through 2015, about 6 percent of the PERs was processed as an AAJ decision or dismissal.

<sup>11</sup> This represented 9 percent of the remanded cases in FY 2011 and 8 percent of the remanded cases in FY 2012.

<sup>12</sup> 20 C.F.R. 404.942 and 416.1442.

Overall, APT for remanded cases increased about 41 percent from FYs 2011 to 2014, from 342 to 483 days (see Figure 1). While ALJ processing time was greater than DQ processing time all 4 years, most of the increase related to DQ handling. DQ processing time increased 82 percent versus a 24-percent increase associated with ALJ processing. DQ processing time more than doubled from 102 days in FY 2011 to 240 days in FY 2012, but, since then, DQ had lowered it to 186 days in FY 2014.<sup>13</sup> In total, claimants with remanded cases waited an average of 141 days longer to receive a final decision in FY 2014 than they waited in FY 2011. The increase in processing time resulted in claimants who had favorable cases waiting longer for retroactive payments as well as SSA paying more interim benefits for cases that were ultimately ceased.

**Figure 1: 4-Year Trend in APT for Remanded PER Cases**



**Note 1:** At the time of our review, 18 (3 percent) of the 653 FY 2014 remanded cases were pending. Overall APT for these FY 2014 remanded cases will increase once the ALJ issues a decision on these cases.

**Note 2:** At the time of our review, 213 (42 percent) of the 511 FY 2015 remanded cases were pending. Because of the large percentage of remanded cases still pending, we decided not to conclude on APT for this group.

### *Reasons for Longer DQ Processing Times for Remanded Cases*

In our interviews with DQ management, AAJs, and staff, we learned that DQ processing time for its PER workload increased for a number of reasons, including the following.

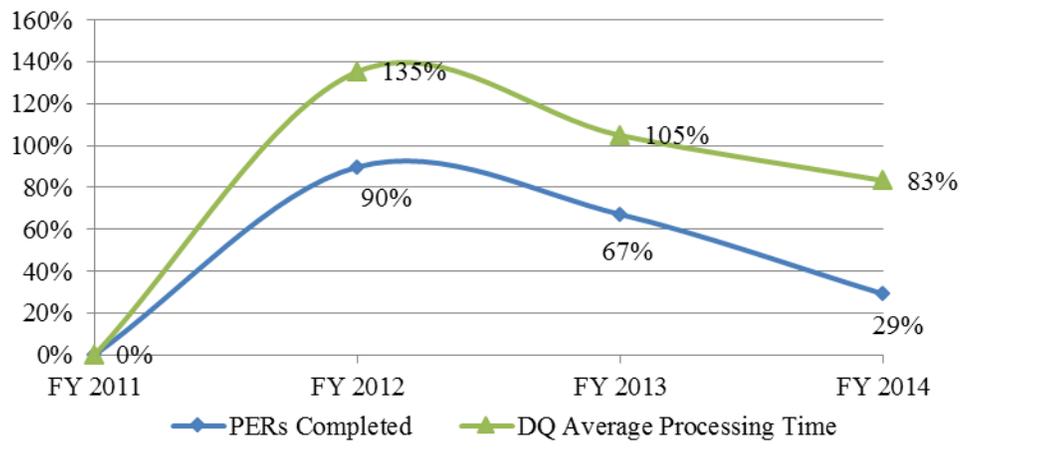
- DQ experienced growth in its PER workload since FY 2011 without a similar growth in staff between 2011 and 2013, which led to an increase in DQ processing time. For instance, in FY 2012, when the number of PERs processed increased 90 percent and staffing did not increase proportionally,<sup>14</sup> DQ's APT increased 135 percent. As the number of PERs

<sup>13</sup> In commenting on the draft report, a DQ manager noted that, beginning in FY 2015, DQ was weekly tracking the processing time of all final remand and decision actions, which he believes contributed to a decrease in processing times in FYs 2015 and 2016.

<sup>14</sup> DQ had 43 employees in FY 2011; 50 in FY 2012; 53 in FY 2013; 76 in FY 2014; and 119 in FY 2015.

decreased and staffing increased in FYs 2013 and 2014, DQ's APT decreased (see Figure 2 for changes in PERs and APT).

**Figure 2: PERs and APTs FYs 2011 to 2014**



**Note:** The numbers reflect the percentage changes since the base year of FY 2011.

- DQ also experienced key staffing losses among its appeals officers.<sup>15</sup> In FY 2011, DQ had five appeals officers, one for each DQ branch. However, in FY 2016, it had two appeals officers for eight branches. Fewer appeals officers meant AAJs had to assist with processing more effectuation cases since DQ had to decide whether to re-open a case within 60 days. DQ had not established a timeliness requirement for AAJ processing of the cases re-opened for further review. Together, this led to longer processing times for cases requiring an AAJ action.<sup>16</sup>
- DQ also cited high turnover among its attorney advisers.<sup>17</sup> DQ managers and staff cited a limited promotion ceiling for attorney advisers and the availability of other attorney positions in the Washington, D.C. area, as two main contributors to high turnover. While DQ hired more attorney advisers in FYs 2014 and 2015, the new hires needed training and on-the-job experience to become fully productive.

<sup>15</sup> Appeals officers can issue effectuations, but they cannot issue decisions, dismissals, or remand orders.

<sup>16</sup> AAJs can issue all types of actions including effectuations, decisions, dismissals, and remand orders.

<sup>17</sup> Attorney advisers review each PER case before it goes to an adjudicator (either an AAJ or appeals officer). The attorney adviser issues a recommendation to either effectuate the cases or take further action.

- In recent FYs, DQ staff has processed other workloads, such as requests for review<sup>18</sup> and selectively sampled quality reviews.<sup>19</sup> At the time of our review, DQ was assisting the Office of Appellate Operations with 10,000 requests for review.<sup>20</sup> In FYs 2014 and 2015, DQ completed about 1,000 selectively sampled quality reviews each year.

## Controls over Denied and Dismissed Cases

We examined the outcomes of 809 cases that DQ selected for further review as part of the FY 2011 PER process and found ALJs either denied or dismissed 190 (23 percent).<sup>21</sup> Upon further review, we found SSA's Office of Operations failed to stop payments in nine (5 percent) of these denied or dismissed cases. After we notified SSA, it stopped payments to eight beneficiaries and was reviewing the remaining case at the time of our audit.

DQ notifies the Office of Operations about the status of a claimant's case at each stage of the PER process. When DQ selects a case for a PER, it initiates an "Appeals Council-Do Not Effectuate" alert that is sent to the field office or payment center. If the PER is not completed within 110 days, DQ sends an alert to Operations to start interim benefits.<sup>22</sup> If DQ remands the favorable decision and the case is denied or dismissed, DQ holds the case for 60 days to see if the claimant filed an appeal. If the claimant does not file an appeal or the appeal is denied, DQ issues a notice to SSA's Office of Operations to stop payment. While DQ monitors case outcomes and alerts Operations when it needs to stop interim payments, DQ managers noted that past communication with the field offices and payment centers was unclear and not always effective. As a result, DQ increased the avenues of communication between the components, leading to an improved process. However, we found errors were still being made, and some claimants were being left in pay status after receiving a denial or dismissal upon appeal.

In one case, a 34-year-old claimant appealed the denial of his concurrent<sup>23</sup> disability benefits case to the hearing level. In November 2010, an SAA issued a fully favorable on-the-record<sup>24</sup> concurrent decision. DQ selected the claim as part of the PER process and remanded the case, stating the SAA's conclusions were not supported by substantial evidence. An ALJ held an

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<sup>18</sup> The claimant requests that the Appeals Council review the ALJ's action on his/her claim.

<sup>19</sup> DQ can conduct quality reviews of selective samples based on such criteria as type of decision, age of claimant, and error-prone areas of disability assessment. However, because of *Administrative Procedure Act* protections on judicial independence, DQ cannot conduct quality reviews based on a specific ALJ or hearing office.

<sup>20</sup> As of June 30, 2016, the Office of Appellate Operations had about 136,000 requests for review pending.

<sup>21</sup> See Appendix A for a flowchart of DQ's PER process. Of the 190, 146 were unfavorable decisions while 44 were dismissals. Of the 190 cases, 178 were denied/dismissed by an ALJ while 12 were denied/dismissed by an AAJ.

<sup>22</sup> Section 1631(a)(8) of the *Social Security Act*; 20 C.F.R. 416.1469(d) requires that SSA pay interim monthly Federal benefits in advance if a final decision is not made on the PER of the favorable decision within 110 calendar days after the date of the ALJ's favorable decision. The Act also states that interim benefits are not considered overpayments, and these requirements apply to Disability Insurance (DI) and Supplemental Security Income (SSI).

<sup>23</sup> A concurrent cases means the claimant filed for benefits for both DI and SSI.

<sup>24</sup> SAAs are permitted to issue on-the-record favorable decisions that do not require a hearing with the claimant.

in-person hearing with the claimant, determined the claimant was capable of performing other work in the economy, and issued an unfavorable decision in February 2012. However, Operations did not stop payments to the claimant and his dependent until we notified it during this audit. Over the 5-year period, the Agency paid the claimant over \$90,200 before it stopped payments in December 2015. The Agency posted an overpayment to the claimant’s account at that time, but the claimant had repaid no funds at the time of our review.

We compared the PER outcomes for FYs 2011 to 2014 to SSA’s payment records and found a lower error rate over time:

- **FY 2011:** 5 percent, or 9 cases, were erroneously in pay status,
- **FY 2012:** 4 percent, or 16 cases, were erroneously in pay status,
- **FY 2013:** 2 percent, or 7 cases, were erroneously in pay status, and
- **FY 2014:** 2 percent, or 4 cases, were erroneously in pay status.

### Costs and Potential Savings of the PERs

We determined DQ’s PER process generated between \$4 and \$5 in savings on average per dollar spent. We reviewed the costs related to the PER process and estimated the Agency spent about \$7 million to complete about 3,700 PERs in FY 2011. Since SSA did not track the specific cost of conducting PERs, we used costs from similar processes for our FY 2011 calculations. For example, we used the FY 2011 request to review unit cost (\$1,384) to stand in for the unit cost of each PER since they are similar types of case review. Additionally, we used the 2011 hearing unit cost (\$2,752) to stand in for the additional unit cost for each remanded case resulting from a PER, since a new hearing often has to be held to resolve the remand issue (see Table 3).<sup>25</sup>

**Table 3: Estimated Costs for the FY 2011 PER Process**

Type of Action	Number of Cases	Agency-wide Unit Cost	Total
<b>PER</b>	3,692	\$1,384	\$5,109,728
<b>Remand</b>	665 (of the 3,692 continued on for an additional hearing)	\$2,752	\$1,830,080
<b>Total</b>			<b>\$6,939,808<sup>26</sup></b>

<sup>25</sup> ODAR’s Office of Budget provided us these two FY 2011 workload unit costs.

<sup>26</sup> We did not include potential additional costs if the claimant appealed the decision on the remanded case. Going forward, SSA could obtain a more accurate cost for its PERs by accounting for these additional costs.

We also found the Agency did not capture potential savings related to the PER process. So, to estimate lifetime savings related to the FY 2011 PERs, we first identified the number of cases terminated as part of the PER process. Of the 3,692 PERs, 175 (5 percent) were denied or dismissed after all appeals.<sup>27</sup> We then broke down the 175 cessations into DI/concurrent cessations and SSI-only cessations to better estimate potential savings and used 2 different approaches to generate estimated lifetime savings.<sup>28</sup>

For our first approach on calculating savings, we used SSA’s estimated savings from its FY 2011 *Annual Report on Continuing Disability Reviews*.<sup>29</sup> Over the years, SSA has reported the costs and benefits related to continuing disability reviews.<sup>30</sup> Using the continuing disability methodology, we found SSA saved about \$29.5 million from the FY 2011 PERs, which is about \$4.25 on average per \$1 spent<sup>31</sup> (see Table 4). Overall, the net savings using this approach was about \$22.6 million.

**Table 4: Estimated Savings from FY 2011 PERs Using Continuing Disability Review Methodology**

Type of Claim	Number of Ceased Cases	SSA Savings per Ceased Case	Medicare/Medicaid Savings per Ceased Case	Estimated Savings
DI/Concurrent	117	\$129,856		\$15,193,152
Medicare	117		\$91,787	\$10,739,079
SSI	58	\$56,698		\$3,288,484
Medicaid	58		\$4,984	\$289,072
<b>Total</b>				<b>\$29,509,787</b>

**Note 1:** In addition to the Social Security benefit, the continuing disability review methodology adds a Medicare cost for each DI/Concurrent case and a Medicaid cost for each SSI case.

<sup>27</sup> While Appendix A shows 191 denials/dismissals, our count of 175 represents the number of denials/dismissals after all appeals were exhausted. See Appendix A for more on the FY 2011 process and related outcome. The cessation rate was 5 percent in FY 2011 and 6 percent in FYs 2012 and 2013. Some PER cases from FY 2014 are still awaiting a remand decision or Appeals Council decision.

<sup>28</sup> In commenting on our report, an Agency official stated we could have included additional savings from PERs that resulted in a less favorable decision. For example, the PER may change the disability onset date to a later date. Going forward, SSA could obtain a more accurate savings for its PERs by accounting for these additional savings.

<sup>29</sup> SSA, *Annual Report on Continuing Disability Reviews for FY 2011*, Appendix B, September 20, 2013. We calculated savings for DI, SSI, and concurrent cessations. We also calculated Medicare/Medicaid savings.

<sup>30</sup> The continuing disability review process is post-effectuation and entails “mailers” or letters to beneficiaries regarding their health and treatment as well as full medical reviews.

<sup>31</sup> Savings of \$29,509,787 divided by costs of \$6,939,808 totals \$4.25 in savings on average per dollar spent.

For the second approach, we used a July 2011 memorandum<sup>32</sup> from SSA’s Office of the Actuary to obtain the lifetime expected benefits from the DI and Medicare Trust Funds for an average disabled worker award in 2011. We did not have similar Office of the Actuary numbers for the SSI program, so we calculated the 5-year estimated SSI payment using the average SSI payment from December 2011. We omitted Medicaid from the calculation since we had no basis for an estimate.<sup>33</sup> Using this methodology, we found SSA saved about \$32 million from the FY 2011 PERs or about \$4.64 on average per \$1 spent<sup>34</sup> (see Table 5). Overall, the net savings using this approach was about \$25.3 million.

**Table 5: Estimated Savings from FY 2011 PERs Using Actuary/SSI Averages**

Type of Claim	Number of Cases	Average Estimated Lifetime Benefit	Average Estimated Medicare/Medicaid Benefit	Total Estimated Savings
DI/Concurrent	117	\$130,000		\$15,210,000
Medicare	117		\$130,000	\$15,210,000
SSI	58	\$31,140		\$1,806,120
<b>Total</b>				<b>\$32,226,120</b>

Both methods demonstrate potential savings using the PER method of randomly selecting cases from the entire population of allowed cases. Given the potential program savings related to DQ’s random selection of cases, increasing the number of PERs would increase Agency savings. As noted earlier, the PER process reviewed only 0.8 percent of ODAR allowances in FY 2011, whereas the Agency reviews about 50 percent of all disability determination services allowances.<sup>35</sup> Using the first approach to calculate potential savings, we estimate that SSA would have experienced net savings of about \$143.9 million in FY 2011 had it conducted a PER on 5 percent of the allowed cases, or an increase of about \$121 million from the savings it already experienced conducting these reviews (see Table 6).

<sup>32</sup> Memorandum from SSA Chief Actuary Stephen C. Goss to Commissioner Michael J. Astrue, July 8, 2011.

<sup>33</sup> Medicaid is a State program that may be available to individuals even if they are not part of SSA’s programs. In addition, availability may vary by state, so it would be difficult to identify a savings amount without understanding the state associated with each denied or dismissed PER case. By omitting Medicaid from our calculations, we are understating potential savings by this unknown amount.

<sup>34</sup> Savings of \$32,226,120 divided by costs of \$6,939,808 equates to \$4.64 in savings on average per dollar spent.

<sup>35</sup> SSA is required to review 50 percent of all disability determination services allowances and other case decisions, selected by predictive modeling, per Pub .L. No. 96-265, enacted in 1980, and Pub .L. No. 109-171, enacted in 2006. While the disability determination services reviews primarily only work with the evidence in the file, about 20 percent of PERs is re-opened for a new hearing (remand) or an Appeals Council decision, allowing for new evidence to be added to the file.

**Table 6: Estimated Savings in FY 2011 Related to Various PER Levels**

FY 2011 Allowances Subject to a PER	Number of PER Cases Reviewed	Estimated Number of Ceased Cases	Potential Net Savings per Ceased Case <sup>1</sup>	Estimated Net Savings
1 Percent	4,464	223	\$128,970	\$28.8 million
5 Percent	22,318	1,116	\$128,970	\$143.9 million
10 Percent	44,637	2,232	\$128,970	\$287.9 million
25 Percent	111,592	5,580	\$128,970	\$719.6 million
50 Percent	223,184	11,159	\$128,970	\$1.44 billion

**Note 1:** Potential savings per case taken from Table 4, which represents the lower potential savings per case. The savings per case represents \$29,509,787 in savings less \$6,939,808 in costs divided by 175 ceased cases.

**Note 2:** These savings projections are based on the random selection of cases for PERs. As discussed in the background, DQ has randomly reviewed about 1.4 percent of all favorable decisions in the last 5 years.

Greater savings per dollar might also be achievable. For example, selecting more error-prone cases for quality review might increase the savings per dollar expended. ODAR already performs quality reviews of selectively sampled cases based on such criteria as type of decision, age of claimant, and error-prone areas of disability assessment.<sup>36, 37, 38</sup>

## CONCLUSIONS

While ODAR’s Division of Quality was generally meeting its 60-day legal timeliness requirement to advise claimants that their decision was under review, APT for both PER effectuations and remanded cases had increased since FY 2011. In FY 2014, remanded PER cases took an average of 483 days to process, up from 342 days in FY 2011. Most of the increase in the processing time was due to an increase in DQ processing time, resulting from such factors as an increase in the number of PERs processed, losses and turnover in staff and management, the demands of other DQ workloads, and a lack of timeliness requirements for the cases re-opened for further review. We also found problems with the Agency’s process for terminating benefit payments for reviews that resulted in an unfavorable decision or dismissal, though the error rate had improved in recent years. Finally, we found the Agency saved about \$4 to \$5 on average per \$1 spent on PERs in FY 2011. To the extent possible, the Agency

<sup>36</sup> However, as noted earlier, because of *Administrative Procedure Act* protections on judicial independence, DQ cannot conduct quality reviews based on a specific ALJ or hearing office.

<sup>37</sup> In 1993, SSA modified the continuing disability review process, which led to an increase in the savings per dollar expended from \$3:\$1 to \$15:\$1. These changes included focusing on error-prone cases, adding SSI-only cases, and instituting a mailer process.

<sup>38</sup> In an April 8, 2014 letter to Acting Commissioner Colvin, the Chairman and Ranking Member of the House Committee on Oversight and Government Reform submitted a list of program reform recommendations. Among them were recommendations to increase the number of focused reviews and to use “announced, neutral, and objective criteria” to conduct these focused reviews.

should consider increasing the number of reviews to maximize potential savings and could modify its sampling methodology to increase overall savings compared to costs. To enhance its analysis of the PER program and aid in future planning, the Agency should also consider collecting and reporting on the costs and savings associated with PERs, and producing future projections of these data.

## RECOMMENDATIONS

To improve the PER process, identify additional cases with quality issues, and increase program savings, we recommend that SSA:

1. Establish timeliness goals in DQ for PER cases requiring a more extensive review.
2. Ensure continued coordination between ODAR and Operations so that cases denied or dismissed as part of the FY 2015 and later PERs are timely ceased.
3. Create PER-related cost data to assist with any future savings calculations.
4. Consider increasing the number of PERs performed per FY and focusing on cases with a greater likelihood of denial or dismissal.

## AGENCY COMMENTS

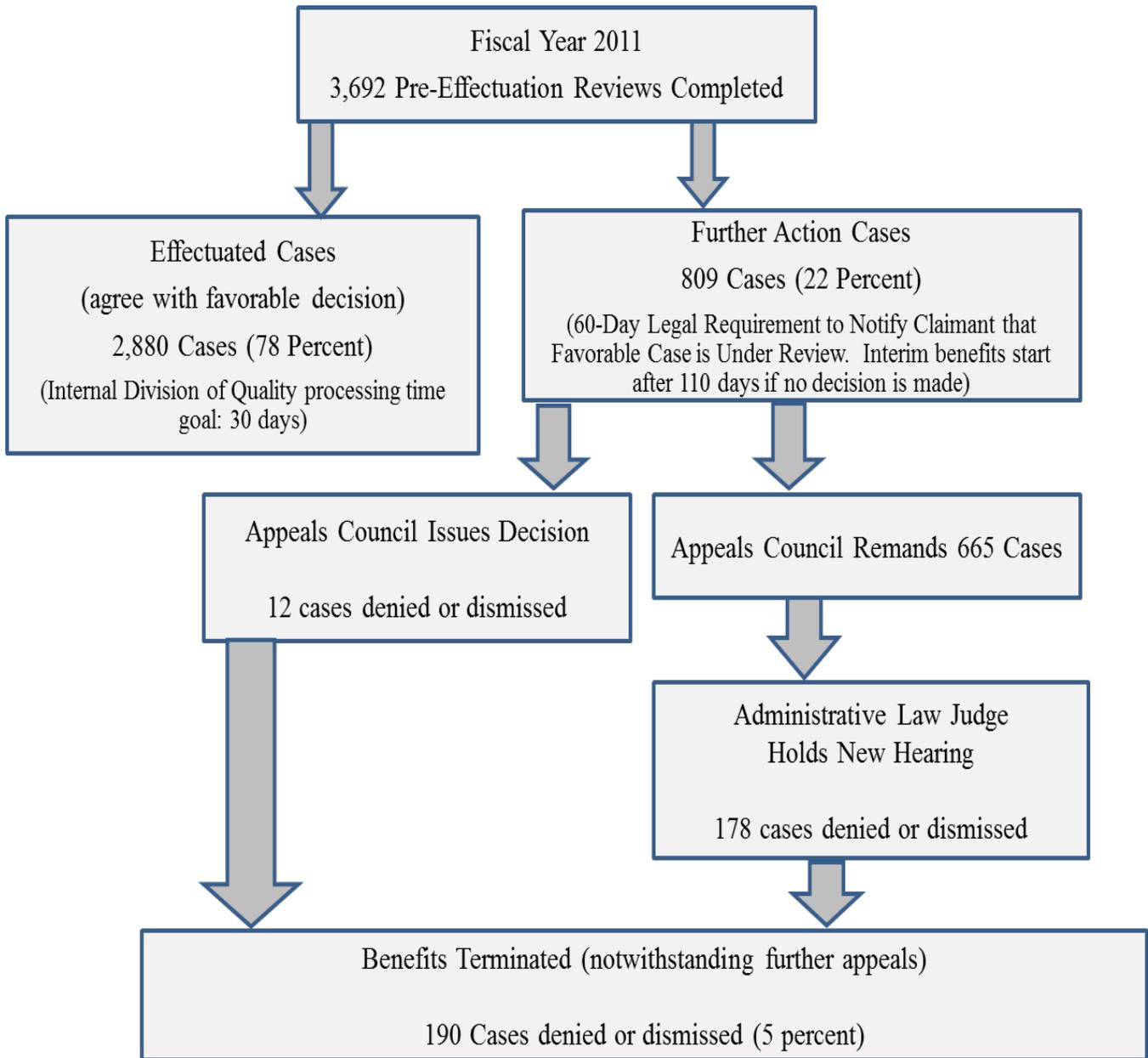
SSA agreed with recommendations, see Appendix C.



Rona Lawson  
Assistant Inspector General for Audit

# *APPENDICES*

## Appendix A – FLOWCHART OF PRE-EFFECTUATION REVIEW



## Appendix B – SCOPE AND METHODOLOGY

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To accomplish our objective, we:

- Reviewed laws, regulations, and Social Security Administration (SSA) policies and procedures associated with the pre-effectuation review (PER) process.
- Reviewed related Office of the Inspector General reports and relevant Agency studies related to the PER process.
- Interviewed the Office of Disability Adjudication and Review's (ODAR) Division of Quality (DQ) managers, adjudicators, and staff and obtained spreadsheets containing PER cases from Fiscal Years (FY) 2011 through 2015. For each FY, we analyzed the cases that were (1) effectuated or (2) underwent further quality review to determine the volume of cases associated with each step in the process as well as the timeliness of that process.
- Accessed ODAR's Case Processing and Management System to determine the outcome of every DQ-remanded case from FYs 2011 and 2014 and the date of the administrative law judge's decision or dismissal.
- Accessed SSA's electronic database to determine the claimant's current benefit status. If the claimant was in current pay status for a benefit for which he/she received an unfavorable decision or dismissal, we used SSA's systems and Case Processing and Management System to determine whether there was a reason for the claimant to be in current pay status (such as a new application, a favorable decision upon further appeal, or a claimant receiving retirement benefits). We notified SSA about any cases that should have been terminated.
- Calculated the estimated costs and benefits of the PER process using data in SSA's FY 2011 *Annual Report on Continuing Disability Reviews* as well as data provided by SSA's Office of the Actuary and ODAR's Office of Budget.

We found the Case Processing and Management System data to be sufficiently reliable to meet our objective. We relied on management assertions and related management information for other data used in this report, such as personnel and cost data. The entity audited was DQ, under the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted this performance audit from February through September 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and conduct the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Appendix C – AGENCY COMMENTS

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### SOCIAL SECURITY

#### MEMORANDUM

Date: January 27, 2017 Refer To: SIJ-3

To: Gale S. Stone  
Acting Inspector General

From: Stephanie Hall /s/  
Acting Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, “Pre-effectuation Reviews of Favorable Hearing Decisions” (A-12-15-50015)--INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Gary S. Hatcher at (410) 965-0680.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,  
“PRE-EFFECTUATION REVIEWS OF FAVORABLE HEARING DECISIONS”  
(A-12-15-50015)**

**General Comment**

Thank you for the opportunity to comment on the above-referenced OIG draft report.

Pursuant to 20 CFR 404.969 and 416.1469, the Appeals Council may review a decision or dismissal on its own motion within 60 days after the date of the decision or dismissal. Cases selected by the Office of Disability Adjudication and Review (ODAR) for own-motion review are not based on the identity of the administrative law judge (ALJ) or the hearing office. Instead, we select the cases from a random sample of favorable decisions or a selected sample of cases that exhibited problematic issues or fact patterns that increased the likelihood of error. We review these cases prior to effectuation of benefits.

As with requests for review, Division of Quality (DQ) analysts in the Office of Appellate Operations (OAO) use the Appeals Review Processing System (ARPS) case analysis tool to store adjudication data on the thousands of hearing-level decisions they review. Based on data collected from the Pre-Effectuation Reviews (PER), OAO provides findings resulting in additional training for ODAR adjudicators, including ODAR Continuing Education Program training.

**Recommendation 1**

Establish timelines goals in DQ for PER cases requiring a more extensive review.

**Response**

We agree. Beginning in November 2015, the DQ implemented a weekly review of case processing times for both the initial and secondary adjudicators involved in the PER case review process. The established timeliness goal for initial adjudicators is 30 days and the goal for secondary adjudicators is 5 days. We monitor adherence to those expectations on a regular basis. If an adjudicator is unable to timely process a case, we transfer the case to another adjudicator for action.

**Recommendation 2**

Ensure continued coordination between ODAR and Operations so that cases denied or dismissed as part of the FY 2015 and later PERs are timely ceased.

**Response**

We agree. We have modified our reports to provide additional information that will assist us in taking more timely action after we issue the new final decisions. For example, ODAR’s Division of Information Technology Integration provides a monthly report that tracks cases remanded by the DQ. This allows us to identify cases that result in hearing level dismissals or

unfavorable decisions. We made some recent changes to the report to list chronologically the most current decisions/dismissals. The purpose is to assist OAO in identifying cases that require sending a stop payment alert to the effectuating components.

Since 2010, to ensure ongoing coordination, we conduct regular recurring discussions with Operations. We are also scheduling further discussions with Operations to explore ways to improve our coordination.

### **Recommendation 3**

Create PER-related cost data to assist with any future savings calculations.

### **Response**

We agree. Working with OCACT and the Office of Budget, we will consider developing PER-related cost data. To date, the primary focus of our PER has always been to collect data that allows us to provide feedback to ODAR to improve the quality of all of our decisions rather than the cost data on individual cases.

### **Recommendation 4**

Consider increasing the number of PERs performed per FY and focusing on cases with a greater likelihood of denial or dismissal.

### **Response**

We agree. Given current resources, we are currently unable to increase the number of random sampled PER cases. Should we receive sufficient funding in future years, we hope to increase the number of reviews conducted. Similarly, given the large number of denial decisions appealed to and reviewed by the Appeals Council, we are currently unable to include unfavorable hearing level decisions in our reviews. However, we expect to include those cases at some point in the future as resources allow. For ALJ dismissals, in the near future, we will explore development of a process to review a sampling of abandonment dismissal actions.

With regard to targeted reviews, your report correctly notes that in 2014 we began selecting cases for PER based on specific error prone areas and issues. We select at least 1000 of these cases each year and as resources permit, we will expand our random sample. This will allow us to focus more on issues identified through our random sample and other error prone areas identified.

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