SOCIAL SECURITY

August 14, 2008

The Honorable Sherrod Brown
United States Senate
Washington, D.C. 20610

Dear Senator Brown:

In a February 12, 2008 letter, you asked that we investigate the claims made in a January 2008 CBS Evening News report that

1. the Social Security Administration (SSA) has instituted quotas for the number of individuals who may have their claims for Social Security Disability Insurance approved,
2. SSA maintains a *culture to deny* disability claims, and
3. employees are told by their supervisors to deny a certain number of disability claim applicants.

To assess the organizational culture at the disability determination services (DDS) for approving and denying disability claims, we visited 31 DDSs, including the Ohio DDS, and conducted 255 interviews with current employees. We also completed 132 telephone interviews with former employees who had separated from all of the 52 DDSs between February 2007 and February 2008.

My office is committed to combating fraud, waste and abuse in SSA's operations and programs. Thank you for bringing your concerns to my attention. This report highlights various facts pertaining to the issues raised in your letter. To ensure SSA is aware of this information, we are providing the Agency a copy of the report.

If you have any questions concerning this matter, please call me or have your staff contact Jonathan Lasher, Deputy Counsel to the Inspector General for External Relations, at (410) 965-7178.

Sincerely,

Patrick P. O'Carroll, Jr.
Inspector General

Enclosure

cc:
Michael J. Astrue

CONGRESSIONAL RESPONSE REPORT

Disability Determination Services Disability Decisions

A-15-08-28114

August 2008

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.

Background

OBJECTIVE

In a February 12, 2008 letter to the Inspector General, Senator Sherrod Brown of Ohio requested that the Office of the Inspector General (OIG) investigate the claims made in a January 2008 CBS Evening News report that (1) the Social Security Administration (SSA) has instituted quotas for the number of individuals who may have their claims for Social Security Disability Insurance approved, (2) SSA maintains a *culture to deny*[1] disability claims, and (3) employees are told by their supervisors to deny a certain number of disability claim applicants. In response to Senator Brown's request, we assessed the organizational culture[2] at the disability determination services (DDS) for approving and denying disability claims.

BACKGROUND

Overview of the DDS Program

Disability determinations under SSA's Disability Insurance and Supplemental Security Income programs are performed by a DDS in each State or other responsible jurisdiction, according to Federal regulations.[3] In carrying out its obligation, each DDS is responsible for gathering adequate evidence to make a disability determination on a claimant's behalf.

The Code of Federal Regulations (C.F.R.) defines disability for adults as ". . . the inability to do any *substantial gainful activity*[4] by reason of any medically determinable *physical or mental impairment*[5] which can be expected to result in death or which has

[1] We defined a culture to deny as the behavior, beliefs, act or practice of working disability cases with the intent to deny the case.

[2] The *BNET* (*Business Network) Business Dictionary* defines organizational culture as the shared pattern of beliefs, assumptions, and expectations held by organizational members and their characteristic way of perceiving the organization's artifacts and environment.

[3] 20 C.F.R. §§ 404.1601 *et seq*. and 416.1001 *et seq*.

[4] According to 20 C.F.R. §§ 404.1571, 404.1572, 416.971 and 416.972, "substantial gainful activity" is the performance of significant physical or mental activities in work for pay or profit or in work of a type generally performed for pay or profit. Work may be substantial even if it is seasonal or part-time or even if the individual does less, is paid less, or has less responsibility than in previous work. Work activity is gainful if it is the kind of work usually done for pay, whether in cash or in kind, or for profit, whether or not a profit is realized.

[5] According to 20 C.F.R. §§ 404.1508 and 416.908, the phrase "physical or mental impairment" is defined as an impairment that results from anatomical, physiological, or psychological abnormality demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

lasted or can be expected to last for a continuous period of not less than 12 months.[6]" In adhering to regulations during the initial disability claims process, the DDS secures evidence to establish medical and vocational facts about a claimant so "sequential evaluation" may be applied.[7] The medical evidence must contain enough detail to permit an independent determination about the following:

- whether the individual is disabled or blind,
- the nature and limiting effects of the individual's physical and/or mental impairment(s),
- the probable duration of the impairment, and
- in cases requiring consideration of vocational factors, the claimant's residual functional capacity to do work-related physical and/or mental activities.

The disability decision made by the DDS is based on the medical and non-medical[8] evidence in the claimant's file. DDS employees do not see claimants face-to-face; therefore, visual observations are not part of the decision-making process. The DDS examiner must rely on the receipt of relevant medical evidence that is provided by the claimant and/or medical sources to support the disability determination.

SSA Monitoring of the DDS Program

To ensure uniform administration of the disability program and conformance with the statutory requirements set forth in the *Social Security Act (*Act), SSA conducts two types of Federal quality reviews of disability claims: the quality assurance review (QAR) and the pre-effectuation review (PER). Both are performed by the Office of Quality Performance's Disability Quality Branches before the effectuation of the DDS determination.

[6] 20 C.F.R. §§ 404.1505 and 416.905.

[7] Sequential evaluation is a five-step process used to determine disability in initial claims and reconsiderations. The five steps are (1) evaluating an individual's work activity to assess if they are engaging in substantial gainful activity, (2) considering the medical severity of the impairment to determine whether the duration requirement is met, (3) considering the medical severity of the impairment to determine whether it meets an SSA medical listing, (4) evaluating the residual functional capacity and past relevant work experience for potential employment options, and (5) evaluating the residual functional capacity and context of the individual's age, education and work experience to see if adjustments can be made to other work. SSA POMS – DI 22001.035 – The Five Steps in Sequential Evaluation – Chart and 20 C.F.R. §§ 404.1520 and 416.920.

[8] Non-medical evidence is information used to help show the severity of an individual's impairment and how it affects his or her ability to work or function. This type of evidence is obtained from educational personnel, public and private social welfare agency personnel, spouses, parents, other caregivers, siblings, other relatives, friends, neighbors and clergy. 20 C.F.R. §§ 404.1513(d) and 416.913(d).

As authorized by section 221(a)(2) of the Act,[9] SSA conducts the QAR[10] to assess DDS performance. The QAR is designed to provide a statistically valid measure of individual DDS performance in terms of decisional accuracy and documentation requirements. This review includes an equal number of both DDS allowances and denials. As shown in Chart 1, SSA reviewed 38,190 cases (about 1.5 percent of all initial disability claims) in Fiscal Year (FY) 2006 and 33,677 cases (about 1.4 percent of all initial disability claims) in FY 2007. Of the cases reviewed, 2,269 were returned to DDSs in FY 2006 and 1,888 were returned in FY 2007 (approximately 6 percent each year) for either decision reversals or additional documentation.

As required by the Act, SSA must report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate on the PER conducted during the previous fiscal year. The Act requires SSA to review at least 50 percent of all State Social Security Disability Insurance initial and reconsideration allowances and a sufficient number of continuing disability review continuances to ensure a high level of accuracy in such determinations. Additionally, the Act requires that SSA select and review those determinations deemed most likely to be incorrect.[11] In administering the PER, SSA reviews 50 percent of favorable Title II and concurrent Title II/XVI initial and reconsideration determinations made by State agencies.[12] As reported in the FY 2006 PER Report to Congress, SSA reviewed 295,336 (51.7 percent) of all disability claim allowances. Based on the total allowances reviewed, 265,185 (46.4 percent) were initial allowances, while the remaining 35,668 (5.3 percent) were reconsiderations. Of the initial allowances reviewed, 10,469 cases (approximately 4 percent) were returned to the DDS for either a decision reversal or additional documentation.

[9] *The Social Security Act §* 221(a)(2), 42 U.S.C. § 421(a)(2).

[10] 20 C.F.R. §§ 404.1640 through 404.1643 and 416.1040 through 416.1043.

[11] *The Social Security Act* § 221(c), 42 U.S.C. § 421(c).

[12] SSA Program Operations Manual System (POMS) (DI 30005.005) – Types of Federal Quality Review.

Chart 1 - Federal Quality Review Summary by the Number of Initial Claim Allowances and Denials Reviewed				
	PER*		QAR	
	FY 2006	FY 2007	FY 2006	FY 2007
Cases Reviewed	265,185	N/A	38,190	33,677
Allowances	265,185	N/A	17,492	16,835
Denials	0[13]	N/A	20,698	16,842
Cases Returned	10,469	N/A	2,269	1,888
*The FY 2007 PER figures have not been made available at this time.				
Source: Information retrieved from (a) FY 2006 and FY 2007 OQP, Federal QAR, Regional Accuracy Rates by Decision/Documentation Return Reports (b) FY 2006 Annual Report of Social Security Pre-effectuation Reviews of Favorable Disability Insurance Determinations.				

To help measure the success of the Disability Insurance program, SSA included specific disability performance indicators in the FY 2007 Performance and Accountability Report (PAR):

- percent of initial disability claims receipts processed up to the budgeted level – (new measure for FY 2007),
- number of initial disability claims pending in the DDS (at/below the FY 2007 goal),[14]
- the average processing time for initial disability claims,
- DDS net accuracy rate (allowances and denials combined), and
- DDS case production per work year.[15]

Based on the FY 2007 performance indicators, four of the five performance goals were met. The one performance goal not met was the DDS case production per work year goal. Both this goal and the number of initial disability claims pending in the DDS have been eliminated from the FY 2008 performance goals.

[13] Per SSA POMS (DI 30005.005), the PER is required to review 50 percent of favorable Title II and concurrent Title II/ XVI initial and reconsideration determinations made by State agencies. Disability claims that are denied are not reviewed under the PER review.

[14] Per March 2008 policy instruction (DDSAL 759) to DDS Administrators, this goal has been eliminated as an external performance measure for FY 2008.

[15] *Id*.

Results of Review

Based on our review, we found the weight of the evidence does not support the allegations that (1) SSA has instituted quotas for the number of individuals who may have their claims for Social Security Disability Insurance approved, (2) SSA maintains a culture to deny disability claims, and (3) employees are told by their supervisors to deny a certain number of disability claim applicants.

Chart 2 - Total Interviews Completed

Job Title	*Current*	*Former*
Examiners	155	111
Medical Staff	63	3
Management	37	18
Totals	**255**	**132**

To assess the organizational culture at the DDSs for approving and denying disability claims, we visited 31 DDSs and conducted 255 interviews with current employees (that is, managers, examiners,[16] and medical staff[17]). We also completed 132[18] telephone interviews with employees who had separated (that is, retired, left, transferred to another component, or were terminated) from all of the 52 DDSs between February 2007 and February 2008.

The interviews focused on questions that would determine whether written or verbal guidance, instructions or policy were provided to the staff regarding the number, percent, or type of disability claims to approve or deny. Additionally, we inquired about the (a) role of the regional office reviews and how they influenced the staff, (b) use and distribution of statistical information and its impact on employees, and (c) structure of performance evaluations. Lastly, we asked two open-ended questions that allowed the interviewees to express their thoughts about the DDS organizational culture: (1) Do you have any thoughts you would like to share with us in respect to approvals/denials? (2) Nationwide the DDSs have a net accuracy rate of 97 percent. However, 62 percent of cases in appeal are overturned. What are your thoughts on this? What are some of the explanations?

Below, we directly answer the three main questions asked by Senator Brown in his letter to the Inspector General. In addition to the three questions asked by Senator

[16] For the purpose of this report, we define examiner as an individual employed at the DDS who adjudicates disability claims. This definition is inclusive of the various job titles assigned by the different DDSs (that is, adjudicator, claims specialist, claims examiner, claims counselor, etc.).

[17] We define medical staff as both medical consultants and psychological consultants.

[18] Based on our methodology, we originally planned to interview 138 separated employees. Due to unresponsiveness or inability to contact, we were unable to interview some individuals originally selected and chose additional individuals to contact. In total, we were successful in completing interviews with 132 separated employees.

Brown, allegations presented in follow-up CBS Evening News articles are also addressed. A detailed chart summarizing results by question and job function can be found in Appendices C through F.

RESPONSES TO SENATOR BROWN'S LETTER

Has SSA instituted quotas[19] for the number of individuals who have their claims approved?

Neither former nor current employees interviewed stated that SSA had quotas for the number of individuals who could have their claims approved.

To determine whether SSA had instituted quotas for approving disability claims, we asked current and former employees about the use of management statistics in the DDS as well as the criteria for individual performance evaluations at the DDS. Based on information received during the interviews, examiners' performance evaluations are, at a minimum, based on three criteria: quality, production, and case management.[20] Although we were provided with samples of statistics and performance evaluations that included the allowance rate of individual examiners and medical staff, only one current employee and two former employees stated that performance ratings were influenced by the number of approvals or denials.

[19] The definition used for quotas is a minimum or maximum production assignment.

[20] Case management is defined by one DDS as the ability to organize caseloads and utilize automation effectively to track case actions and ensure timely case development.

Additionally, SSA does not have a performance goal for measuring disability claim approvals or denials. SSA tracks these rates as well as many other attributes such as receipts, pending claims, total decisions, and consultant exams. These data are used by various SSA components for management information purposes only (that is, trend analysis, case management, and/or programmatic and policy evaluation). The approval and denial rates are not published in SSA's annual PAR because these rates are not used as a DDS performance indicator.

Chart 3 - FYs 2003-2008 Average Initial Disability Claim Processing Time Targets and Performance

Fiscal Year	Targets	Actual
2008	107 days	TBD
Historical Performance		
2007	88 days	83 days
2006	93 days	88 days*
2005	93 days	93 days
2004	97 days	95 days*
2003	104 days	97 days

*Rounded up if >=.5 and down if <=.4.

Performance Indicator Definition: This is the fiscal year average processing time for Social Security and Supplemental Security Income disability claims combined. Processing time is measured from the application date (or protective filing date, if applicable) to either the date of the denial notice or the date the system completes processing an award. This includes "revised time," "transit time," and "field office, Disability Determination Services, and Disability Quality Branch times," as well as protective filing times for awarded and medically denied claims**. Source:** Information retrieved from (a) FY 2008 Annual Performance Plan and Revised Final Plan for FY 2007 (b) FY 2002 – FY 2008 SSA PARs

One measure for which we received feedback is the average processing time of the initial disability claim. In FY 2007, the annual processing time goal was 88 days.[21] The actual processing time calculated for FY 2007 was 83 days.[22] The FY 2008 target is 107 days.[23] Although employees did not indicate there were quotas to approve or deny claims, some employees indicated more pressure to process disability claims. Specifically, based on interview responses, 11 (4 percent) current and 15 (11 percent) former employees stated there was pressure and focus on processing claims rather than pressure to approve or deny a claim. In support of the current and former interviewee responses, Chart 3 illustrates that the target historical performance of SSA's average initial disability claim processing time decreased from 104 days in FY 2003 to 88 days in FY 2007.

[21] SSA FY 2007 PAR, Overview of Key Performance Indicators, Goals and Results, page 14.

[22] *Id*.

[23] In FY 2008, only claims that require a medical determination are included in the computation. In prior years, the computation also included claims that were technically denied (for example, the claimant was not insured for benefits). These technical denials are relatively quick claims and SSA felt that their inclusion in the computation was unrealistically lowering the average processing time. The expectation is that the FY 2008 change will provide SSA with a more accurate count of how long it takes a claimant to receive a decision on a disability claim that requires a medical determination. Without these technical or non-medical denials, the average processing time is approximately 20 days higher. SSA FY 2008 Annual Performance Plan and Revised Final Plan for FY 2007 – Summary of Performance Measures, page 5 and 10-11.

Overall, there was no indication by current or former employees interviewed that SSA issued quotas for the number of individuals who have their claims approved.

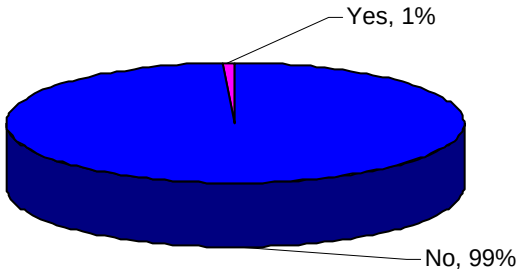
Does SSA maintain a culture to deny?

Based on interviews with current and former DDS examiners, medical staff and management, SSA does not maintain a culture to deny. Two key questions helped provide insight into assessing this allegation.

(1) Are you encouraged to process a certain number, percentage, or type of denials per week/month/year?

When asked whether examiners, medical staff, or management were encouraged to deny disability claims, 255 (100 percent) current and 129 (98 percent) former employees stated they were not encouraged to deny disability claims (see Chart 4). Each of the three former employees who stated they were encouraged to deny disability claims worked at a different DDS.

Chart 4 - Are you encouraged to process a certain number, percentage, or type of denials per week/month/year?*



*Responses from all current and former employee interviews.

(2) Do you have any thoughts you would like to share with us with respect to approvals/denials?

Interviewees were asked this open-ended question about their thoughts on approvals and denials in relation to the disability claim process. The volunteered responses varied. Based on consolidated results, the following responses were provided.

- Fifty-nine (23 percent) current and 20 (15 percent) former employees stated they processed disability claims according to the SSA guidelines and based on the medical evidence.
- Twenty-one (8 percent) current employees and 10 (8 percent) former employees believed the policies and listings make it hard to process disability claims because they feel they are out of date.

- Twenty-six (10 percent) current employees and two (2 percent) former employees felt there was a *culture to allow*[24] at the DDS.
- Only one (less than 1 percent) current employee stated they felt there was a culture to deny at the DDS.

The remaining respondents either did not provide any comment or provided other general comments.

Overall, based on the responses to the two questions, only one (less than 1 percent) current employee and three (2 percent) former employees indicated there is a culture to deny at the DDS.

Are employees encouraged by their superiors to deny or approve a certain number of claims?

Three key questions helped us determine whether employees were encouraged to deny or approve a certain number of disability claims at the DDS.

(1) Have you ever been provided *written* guidance that stated or implied (a) how many disability claims, (b) what type of disability claims, or (c) what age of disability claimants you (or a person in your position) should approve or deny?

When asked directly if examiners or medical staff were provided written guidance, six (3 percent) current employees and two (2 percent) former employees answered yes. Although eight total current and former employees answered yes to the question, two stated the written guidance provided were SSA policy and the medical listings, three stated the written guidance provided encouraged staff to approve more disability claims, one stated individual performance was compared to national standards and one provided no comment. Only one former employee answered yes and commented ". . . we were instructed that if they [disability claimant] were under 55, do not spend much time on them. Deny them." This individual was unable to provide a copy of the written guidance.

(2) Have you ever been told *verbally*, (a) how many disability claims, (b) what type of disability claims, or (c) what age of disability claimants you (or a person in your position) should approve or deny?

When asked directly if examiners or medical staff were provided verbal guidance, nine (4 percent) current employees and six (5 percent) former employees answered yes. Although 15 total current and former employees answered yes to the question, 2 individuals stated verbal guidance was provided on the general work process, 8 stated they were provided verbal guidance to focus on increasing the DDS allowance rates, 1 stated individual performance was compared to national standards, and 1 provided no

[24] We define a culture to allow as the behavior, beliefs, act or practice of working cases with the intent to approve the case.

comment. The remaining three comments were provided by both current and former employees and indicated a culture to deny disability claims. One current employee commented,

> . . . I have been told how many cases that I need to make decisions on and I have been told that if someone is under 50 years old that maybe I shouldn't put as much time into the case because they're probably not going to get an allowance. Supervisors over the years have said this. One medical consultant jokingly suggested that I shouldn't read the medical records because I take too long on cases. I have also been told I should hurry on cases that typically would be denied.

A former employee commented, ". . . there was a certain amount of denials and approvals that had to be processed and having too many allowances was a problem. It came from a mix of supervisors and seasoned adjudicators, but it was definitely not written and was off the record." Another former employee commented, ". . . yes, periodically. . . I was told that I put too much emphasis on the evidence in the case."

Overall, only one former employee (less than 1 percent) indicated they were provided written guidance on the type of disability claim to deny. Two current employees and one former employee (both less than 1 percent) indicated they were provided verbal guidance on the type, number, and age of disability claimants to deny. Due to the low percentages, these seem to be isolated cases and do not represent all DDSs.

(3) Does the Disability Quality Branch (DQB) process influence how you process claims?

There was speculation that OQP's PER and QAR influence how disability claims are adjudicated. An initial claim returned as a result of a QAR, which measures the rate of accuracy of favorable and unfavorable DDS disability determinations, has the potential to impact the Federal performance accuracy rate of the DDS.[25]

Chart 5 compares the number of cases selected and reviewed under QAR and PER. Based on the larger number of cases reviewed under PER, if a claim is returned to the DDS for a decision reversal, the claim is more likely to move from an allowance to a denial. For the QAR administered in FY 2006, out of the 20,698 denied cases reviewed (see Chart 1 on Page 3), the 946 denied cases (about 4.6 percent) that were returned to the DDS resulted in a decisional reversal. At this time, SSA does not review denials as part of the PER. If a review of denials were part of the PER, we believe additional cases may be changed to allowances before the effectuation of the disability determination.

[25] Only group I deficiencies in initial quality assurance sample cases are used in computing performance accuracy rates. (SSA POMS DI 30005.001).

Chart 5 – Federal Quality Review Summary for Initial Disability Determinations by Types of Returns				
	PER*		QAR	
	FY 2006	FY 2007	FY 2006	FY 2007
Cases Reviewed	265,185	N/A	38,190	33,677
Case Returns	10,469	N/A	2,269	1,888
Changed to Denials	5,267	N/A	281	242
Changed to Allowances	0[26]	N/A	946	753
*The FY 2007 PER figures has not been made available at this time.				
Source: Information retrieved from (a) FY 2006 and FY 2007 OQP, Federal QAR, Initial Disability Determinations, Net Accuracy: National and Regional Rates (b) FY 2006 Annual Report of Social Security Pre-effectuation Reviews of Favorable Disability Insurance Determinations				

When we asked current and former employees about the DQB process, 60 (24 percent) current employees and 36 (27 percent) former employees stated the DQB process influences how they adjudicate disability claims. Nine current (6 percent) and 13 (12 percent) former examiners stated the DQB oversight made them more careful in applying the disability rules and regulations.

As part of the PER sample selection process, DQB attempts to select those favorable determinations most likely to be incorrect.[27] Although not all DDS employees interviewed were aware of the differences between the PER and QAR sample selection criteria, they believed more focus was placed on reviewing allowances, as well as specific types of disability claims. For example, one DDS examiner interviewed mentioned there is an ". . . emphasis on selecting allowances." Another current DDS examiner mentioned ". . . it [DQB case selection] is suppose[d] to be randomly selected, but Medical Vocational cases over age 50 seem to get picked." Because allowances and specific types of cases are more likely to be reviewed by DQB, 22 (14 percent) current and 22 (20 percent) former examiners stated they performed more work to develop and document the claims.

When we asked examiners if they were more likely to reverse a disability decision that was returned from DQB, 36 (26 percent) current examiners and 34 (27 percent) former examiners said yes. Both current and former examiners did note that sometimes DQB only requested additional documentation and not a decision reversal. Others stated if they received a return from DQB, they just did what they were told.

[26] Per SSA POMS (DI 30005.005), the PER is required to review 50 percent of favorable Title II and concurrent Title II/Title XVI initial and reconsideration determinations made by State agencies. Disability claims that are denied are not reviewed under the PER review.

[27] SSA POMS DI 30005.005 Types of Federal Quality Review – To the extent feasible, the sample selection is to be made from those determinations most likely to be incorrect.

RESPONSES TO ADDITIONAL NEWS ALLEGATIONS

Is medical staff asked to make decisions outside their medical specialty?

Each DDS is run by the State or other responsible jurisdiction. As non-Federal agencies, the DDS position descriptions and position titles are approved by either the State or other responsible jurisdiction.[28] At a minimum, SSA's POMS makes a distinction between a medical consultant (MC) and a psychological consultant (PC). An MC is a licensed physician (medical or osteopathic), a licensed optometrist, a licensed podiatrist, or a qualified speech-language pathologist.[29] An MC evaluates all non-mental or physical impairments. A PC is a psychologist who has the same responsibilities as an MC but who can only evaluate mental impairments.[30]

Based on interviews with current medical staff, 20 (32 percent) stated they were asked to make decisions outside their medical specialty. MCs may identify themselves as having specialties in pediatrics, internal medicine, or general surgery; however, these areas are not recognized as specialties in SSA's written policy. For example, one MC responded that his medical specialty was obstetrics and gynecology, and he was asked to make decisions outside his medical specialty. He was asked to make these decisions by the head of the MCs and if needed, ". . . he [the head of MCs] gives us the guidance on obtaining the right medical evidence to meet the listings." Another MC stated his medical specialty was pediatrics; however, he was asked to make medical decisions associated with adult disabilities. He specifically stated ". . . part of the job description is to make decisions, which may or may not be outside of your medical specialty." A third MC stated his medical specialty was internal and occupational medicine; however, he was asked to work ". . . child cases but he doesn't practice pediatrics." Although individual MCs may designate an area of specialty, the primary role of the MC in the DDS is their medical ability to assess non-mental impairments.

SSA's policy does not discuss whether physicians should review disability cases based on their specialty. Based on the comments we received, SSA should consider outreach efforts with medical consultants and/or the medical community to determine whether disability cases should be distributed to medical staff by specialty.

[28] 20 C.F.R. §§ 404.1621(b) and 416.1021(b) – The State agency will, except as may be inconsistent with paragraph a of this section, adhere to applicable State approved personnel standards in the selection, tenure, and compensation of any individual employed in the disability program.

[29] 20 C.F.R. §§ 404.1616(a) through 404.1616(c) and 416.1016(a) through 416.1016(c).

[30] 20 C.F.R. §§ 404.1616(d) through 404.1616(f) and 416.1016(d) through 416.1016(f).

Are policies and listings out of date, and do these materials make it harder to process disability claims?

When asking former and current DDS employees about their thoughts on the approval/denial process, 21 (8 percent) current and 10 (8 percent) former employees stated the policies and listings make it hard to make disability decisions. One of the most common reasons provided is that the *Listings of Impairments* (the *Listings*) is out of date.

On April 23, 2008, the Commissioner of SSA testified before the House of Representatives' Committee on Ways and Means. In his statement, the Commissioner mentioned the *Listings* used to make disability decisions and SSA's efforts to update "the *Listings* on a regular basis" as this will ". . . allow disability adjudicators to resolve disability cases more accurately and efficiently."[31] Per SSA, they are updating the *Listings*. In the past 4 years, seven of the body system listings have been completely rewritten to correspond with current medical and technological advances. In addition to SSA's initiative, the OIG is planning to assess SSA's efforts to update the *Listings* in FY 2009.

Why is the DDS nationwide net accuracy rate 97 percent; however, 62 percent of cases in appeal are overturned?

SSA has established a specific administrative review process for individuals who disagree with an initial determination decision. The administrative review process consists of several levels (see Appendix G). In most cases, the reconsideration[32] is the first step in the administrative review process, followed by an administrative law judge (ALJ) hearing, and then the Appeals Council review.[33] The DDS is involved in the reconsideration level of review, and it can overturn an initial disability determination if deemed necessary.[34]

Many current and former employees focused their responses on the role of the ALJ hearings.

- Ninety (35 percent) current employees and 51 (39 percent) former employees believed the reason for the discrepancy between the DDS decisions and ALJ decisions is caused by a different operating standard between examiners and ALJs.

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[31] Statement of Michael J. Astrue, Commissioner for Social Security Administration Testimony, April 30, 2008.

[32] Reconsideration is the (a) opportunity to present additional evidence, (b) a review of the evidence considered in making the initial determination and any other evidence presented, (c) an opportunity for a disability hearing for cases, and/or (d) a reconsidered determination based on all evidence of record. (SSA POMS – DI 27001.001).

[33] 20 C.F.R. §§ 404.929, 404.930, 404.932, 416.1429, 416.1430 and 416.1432.

[34] SSA POMS – DI 20101.010 Disability Determination Services Jurisdiction – Reconsideration Cases.

In support of the respondent's opinions, the C.F.R. states that "The State agency will make disability determinations based only on the medical and nonmedical evidence in its files."[35] As a claimant moves through the administrative review process, the C.F.R. states that the decision of the administrative law judge "…must be based on evidence offered at the hearing or otherwise included in the [claimant] record."[36]

- Sixty-two (24 percent) current employees and 25 (19 percent) former employees believed too much time elapses between the initial disability determination and the appeals process in that the claimant's condition could have worsened and/or new medical evidence could be presented.

- Thirty-four (13 percent) current employees and 13 (10 percent) former employees believed the ALJs have an advantage in their ability to see claimants face-to-face.

Overall, the thoughts of current and former employees regarding the overturning of initial disability determinations vary.

[35] 20 C.F.R. §§ 404.1615(b) and 416.1015(b).

[36] 20 C.F.R. §§ 404.953 and 416.1453.

Conclusions

As seen in the January 2008 CBS Evening News report, the disability insurance program continues to remain the focal point of all involved in the process. The factors that drive the number of people who file for disability vary demographically, economically and socially. Additionally, the changing health issues and medical field enhancements help add to the complexities of administering the program. Based on our work, we found the weight of the evidence does not support the allegation that there is a culture to deny within the DDSs as reported by the CBS news report.

Appendices

Acronyms

ALJ	Administrative Law Judge
C.F.R.	Code of Federal Regulations
DDS	Disability Determination Services
DQB	Disability Quality Branch
FY	Fiscal Year
MC	Medical Consultant
OIG	Office of the Inspector General
PAR	Performance and Accountability Report
PC	Psychological Consultant
PER	Pre-effectuation Review
POMS	Program Operations Manual System
QAR	Quality Assurance Review
SSA	Social Security Administration
U.S.C.	United States Code

Scope and Methodology

Scope

To accomplish our objective, we established two research methodologies to address two populations: current and former disability determination services (DDS) employees. In addition to the two research methodologies, we developed and used a standard questionnaire for all interviews. We also reviewed applicable Federal laws and regulations and Social Security Administration (SSA) policies and procedures relating to disability determinations.

Methodology 1 – Current Employees

- Performed site visits to 31 DDSs and interviewed employees.
- The locations were selected based on the following criteria: (1) the DDSs were within driving distance from the Office of Audit Headquarters and field office locations, (2) a current DDS Administrative Cost Review by our office was ongoing or scheduled to start within the audit time frame, or (3) a site visit by our office was scheduled to a hearing office in close proximity to the DDS.
- At each DDS, we interviewed eight current employees with more than 1 year work experience including five DDS examiners, two medical staff, and one manager.
- The individuals were selected by the auditors performing each site visit upon arrival.
- Of the 31 DDS site visits, additional time was available to complete an additional 1 medical staff and 6 manager interviews. No additional time was allowed for more examiner interviews. A total of 255 interviews were completed.
- Information was gathered and analyzed.

Methodology 2 – Former Employees

- Requested a list of separated employees from each of the 52 DDSs that included the names and contact information for those that retired, left, transferred to another component, or were terminated from the DDSs.
- We randomly selected a minimum of two ex-employees from each DDS. For each DDS with more than two separated employees, we reviewed 10 percent of the total number of ex-employees. Accordingly, for those DDSs with 20 or fewer ex-employees, we randomly selected 2 employees for review. For those DDSs with 21 or more ex-employees, we conducted systematic sampling (with a randomly selected start number).
- We contacted individuals by telephone and conducted interviews.

- Based on the information received from the DDSs, we attempted to conduct 138 interviews with former employees and successfully completed 132 interviews.
- Data were consolidated and analyzed.

All fieldwork was conducted from February to April 2008 in Baltimore, Maryland, and 31 States. The principal entities audited were the 50 State DDSs including those in Puerto Rico and the District of Columbia.

We conducted this review in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for 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.

Results of Interviews – Consolidated Employee Responses

Attached are the consolidated results of all current and former disability determination services (DDS) employees interviewed. Relevant questions were asked of current and former employees based on their job responsibilities. Each question listed will identify which employees were asked the specific question. The results are summarized based on current and former employee responses. The total number of current employees interviewed (that is, examiners, medical staff, and management) was 255. The total number of former employees interviewed was 132.

CONSOLIDATED RESPONSES						
	Current			Former		
Total # of DDS interviews conducted with examiners, medical staff, and management	**255**			**132**		
ALL QUESTIONS	**Yes**	**No**	**N/A**	**Yes**	**No**	**N/A**
Does your job include approval/denial of claims? (Examiners and Medical Staff Only)	84%	15%	< 1%	100%	0%	0%
Provided written guidance on claims to approve/deny? (Examiners and Medical Staff Only)	3%	97%	0%	2%	98%	0%
Do you provide written guidance to staff on approving/denying claims? (Management Only)	8%	92%	0%	0%	100%	0%
Did the DDS set goals for the number, percentage, or types of claims to approve or deny? (Management Only)	0%	100%	0%	0%	100%	0%
Told verbally how many claims to approve/deny? (Examiners and Medical Staff Only)	4%	96%	0%	5%	95%	0%
Do you provide verbal guidance to staff on approving/denying claims? (Management Only)	5%	95%	0%	0%	100%	0%
Encouraged to approve?	4%	96%	0%	7%	93%	0%
Encouraged to deny?	0%	100%	0%	2%	98%	0%
Does Region set goals for approvals/denials? (Management Only)	0%	100%	0%	0%	100%	0%
Does DQB influence how you process claims?	24%	76%	< 1%	27%	70%	3%
More likely to reverse returns from DQB? (Examiners Only)	23%	77%	0%	31%	67%	3%
Staff ratings affected by approvals/denials? (Management Only)	0%	100%	0%	0%	100%	0%
Performance rating influenced by approval/denial rate? (Examiner and Medical Staff Only)	< 1%	99%	1%	2%	97%	1%
Asked to make decisions outside medical specialty? (Medical Staff Only)	32%	68%	0%	67%	33%	0%
Statistics maintained on approval/denial rates?	30%	70%	0%	45%	48%	7%

Thoughts on approvals/denials?	**Current**	**Former**
(a) It is tough to process disability claims. There is pressure to produce.	4%	11%
(b) I believe approvals are easier to process.	2%	2%
(c) I believe denials are easier to process.	0%	2%
(d) I believe the process is guided by the evidence.	23%	15%
(e) I believe the policies and listings make it hard to process disability claims because they are out of date.	8%	8%
(f) I believe there is a culture to allow.	10%	2%
(g) I believe there is a culture to deny.	< 1%	0%
(h) Respondents provided other general comments.	36%	44%
(i) Respondent did not provide any comments.	16%	17%
Thoughts on DDS disability decisions being overturned in appeal?	**Current**	**Former**
(a) I believe ALJs operate by a different set of standards or a different process.	35%	39%
(b) I believe ALJs have an advantage because they are able to see the claimants.	13%	10%
(c) I believe a claimant having an attorney as an advocate during the appeals process is beneficial.	4%	2%
(d) I believe too much time passes and the claimant's condition worsens or new medical evidence is presented.	24%	19%
(e) I believe the processing time constraints placed on the examiner does not allow for full development of the case.	1%	7%
(f) Other comment.	20%	22%
(g) No comment.	2%	2%

Results of Interviews – Claims Examiner Responses

Attached are the consolidated results of all current and former disability determination services (DDS) examiners interviewed. The results are summarized based on current and former employee responses. The total number of current DDS examiners interviewed was 155. The total number of former DDS examiners interviewed was 111.

DDS EXAMINER RESPONSES						
	Current			Former		
Total # of DDS Examiners Interviewed	**155**			**111**		
DDS Examiner Questions	**Yes**	**No**	**N/A**	**Yes**	**No**	**N/A**
Does your job include approval/denial of claims?	100%	0%	0%	100%	0%	0%
Provided written guidance on claims to approve/deny?	3%	97%	0%	2%	98%	0%
Told verbally how many claims to approve/deny?	4%	96%	0%	5%	95%	0%
Encouraged to approve?	4%	96%	0%	7%	93%	0%
Encouraged to deny?	0%	100%	0%	3%	97%	0%
Does Disability Quality Branch (DQB) influence how you process claims?	23%	77%	0%	31%	67%	3%
More likely to reverse returns from DQB?	26%	74%	< 1%	28%	71%	1%
Performance rating influenced by approval/denial rate?	1%	99%	0%	2%	97%	1%
Statistics maintained on approval/denial rates?	34%	66%	0%	48%	45%	7%
Thoughts on approvals/denials?	**Current**			**Former**		
(a) It is tough to process disability claims. There is pressure to produce.	7%			13%		
(b) I believe approvals are easier to process.	1%			1%		
(c) I believe denials are easier to process.	0%			2%		
(d) I believe the process is guided by the evidence.	28%			13%		
(e) I believe the policies and listings make it hard to process disability claims because they are out of date.	7%			8%		
(f) I believe there is a culture to allow.	36%			45%		
(g) I believe there is a culture to deny.	5%			0%		
(h) Respondents provided other general comments.	1%			0%		
(i) Respondent did not provide any comments.	14%			19%		

Thoughts on DDS disability decisions being overturned in appeal?	**Current**	**Former**
(a) I believe Administrative Law Judges (ALJ) operate by a different set of standards or a different process.	34%	38%
(b) I believe ALJs have an advantage because they are able to see the claimants.	14%	11%
(c) I believe a claimant having an attorney as an advocate during the appeals process is beneficial.	3%	1%
(d) I believe too much time passes and the claimant's condition worsens or new medical evidence is presented.	24%	16%
(e) I believe the processing time constraints placed on the examiner does not allow for full development of the case.	23%	24%
(f) Other comment.	1%	2%
(g) No comment.	2%	8%

Results of Interviews – Medical Staff Responses

Attached are the consolidated results of all current and former disability determination services (DDS) medical staff interviewed. The results are summarized based on current and former DDS medical staff responses. The total number of current DDS medical staff interviewed was 63. The total number of former DDS medical staff interviewed was 3.

DDS MEDICAL STAFF RESPONSES						
	Current			Former		
Total # of DDS Medical Staff Interviewed	**63**			**3**		
DDS Medical Staff Questions	**Yes**	**No**	**N/A**	**Yes**	**No**	**N/A**
Does your job include approval/denial of claims?	46%	52%	2%	100%	0%	0%
Provided written guidance on claims to approve/deny?	3%	97%	0%	0%	100%	0%
Told verbally how many claims to approve/deny?	5%	95%	0%	0%	100%	0%
Encouraged to approve?	5%	95%	0%	0%	100%	0%
Encouraged to deny?	0%	100%	0%	0%	100%	0%
Does Disability Quality Branch influence how you process claims?	22%	78%	0%	0%	100%	0%
Performance rating influenced by approval/denial rate?	0%	97%	3%	0%	100%	0%
Statistics maintained on approval/denial rates?	21%	79%	0%	67%	0%	33%
Asked to make decisions outside medical specialty?	32%	68%	0%	67%	33%	0%
Thoughts on approvals/denials?	**Current**			**Former**		
(a) It is tough to process disability claims. There is pressure to produce.	0%			0%		
(b) I believe approvals are easier to process.	0%			0%		
(c) I believe denials are easier to process.	0%			0%		
(d) I believe the process is guided by the evidence.	13%			0%		
(e) I believe the policies and listings make it hard to process disability claims because they are out of date.	11%			33%		
(f) I believe there is a culture to allow.	19%			0%		
(g) I believe there is a culture to deny.	0%			0%		
(h) Respondents provided other general comments.	33%			67%		
(i) Respondent did not provide any comments.	24%			0%		

Thoughts on DDS disability decisions being overturned in appeal?	**Current**	**Former**
(a) I believe Administrative Law Judges (ALJ) operate by a different set of standards or a different process.	37%	33%
(b) I believe ALJs have an advantage because they are able to see the claimants.	17%	33%
(c) I believe a claimant having an attorney as an advocate during the appeals process is beneficial.	8%	0%
(d) I believe too much time passes and the claimant's condition worsens or new medical evidence is presented.	13%	0%
(e) I believe the processing time constraints placed on the examiner does not allow for full development of the case.	19%	33%
(f) Other comment.	6%	0%
(g) No comment.	0%	0%

Results of Interviews – Management Responses

Attached are the consolidated results of all current and former disability determination services (DDS) management interviewed. The results are summarized based on current and former DDS management responses. The total number of current DDS management interviewed was 37. The total number of former DDS management interviewed was 18.

DDS MANAGEMENT RESPONSES						
	Current			Former		
Total # of DDS Managers Interviewed	**37**			**18**		
DDS Management Questions	**Yes**	**No**	**N/A**	**Yes**	**No**	**N/A**
Do you provide written guidance to staff on approving/denying claims?	8%	92%	0%	0%	100%	0%
Do you provide verbal guidance to staff on approving/denying claims? (Management Only)	5%	95%	0%	0%	100%	0%
Does Region set goals for approvals/denials?	0%	100%	0%	0%	100%	0%
Did the DDS set goals for the number, percentage, or types of claims to approve or deny?	0%	100%	0%	0%	100%	0%
Encouraged to approve?	5%	95%	0%	6%	94%	0%
Encouraged to deny?	0%	100%	0%	0%	100%	0%
Does Disability Quality Branch influence how you process claims?	27%	70%	3%	11%	83%	6%
Staff ratings affected by approvals/denials?	0%	100%	0%	0%	100%	0%
Statistics maintained on approval/denial rates?	35%	65%	0%	28%	72%	0%
Thoughts on approvals/denials?	**Current**			**Former**		
(a) It is tough to process disability claims. There is pressure to produce.	0%			6%		
(b) I believe approvals are easier to process.	5%			6%		
(c) I believe denials are easier to process.	0%			0%		
(d) I believe the process is guided by the evidence.	19%			33%		
(e) I believe the policies and listings make it hard to process disability claims because they are out of date.	8%			0%		
(f) I believe there is a culture to allow.	16%			11%		
(g) I believe there is a culture to deny.	0%			0%		
(h) Respondents provided other general comments.	41%			33%		
(i) Respondent did not provide any comments.	11%			11%		

Thoughts on DDS disability decisions being overturned in appeal?	**Current**	**Former**
(a) I believe Administrative Law Judges (ALJ) operate by a different set of standards or a different process.	41%	44%
(b) I believe ALJs have an advantage because they are able to see the claimants.	3%	0%
(c) I believe a claimant having an attorney as an advocate during the appeals process is beneficial.	3%	6%
(d) I believe too much time passes and the claimant's condition worsens or new medical evidence is presented.	46%	39%
(e) I believe the processing time constraints placed on the examiner does not allow for full development of the case.	0%	0%
(f) Other comment.	8%	6%
(g) No comment.	0%	6%

The Administrative Review Process[1]

Initial Determination

- The Social Security Administration (SSA) contracts with each State or other responsible jurisdiction to make disability decisions according to Federal regulations.[2] The disability determination services (DDS) in each State and territory apply Social Security regulations and policy guidance to reach an initial determination of whether a claimant is or is not disabled.

Reconsiderations

- If a claimant is dissatisfied with the initial determination, the claimant may request review by a second review. There are 10 States—Alaska, Alabama, California (Los Angeles West and North Branches only), Colorado, Louisiana, Michigan, New Hampshire, New York, Missouri, and Pennsylvania—that are participating in a Disability Redesign Prototype. In these states claimants who appeal their initial disability decision go directly to a hearing before an administrative law judge and skip the reconsideration step.
- Reconsideration involves the review of evidence considered in making the initial determination, together with any other evidence SSA receives from the claimant. A DDS employee who was not involved in the initial determination will evaluate the evidence and issue a new determination.
- The reconsideration process is currently performed by the DDS.

Hearings

- An individual dissatisfied with the reconsideration may request a hearing that will be conducted before an administrative law judge (ALJ). The claimant may appear in person, submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses. The ALJ conducts the hearing and makes an independent inquiry into all of the evidence on file from the initial and reconsidered determinations, evaluates new evidence presented by the claimant, questions witnesses presented by the claimant, and may receive evidence from vocational and medical experts. Once a full inquiry into the claimant's case is complete, the ALJ issues a written decision. Under certain circumstances, the ALJ may dismiss the claimant's hearing request.

[1] SSA's administrative review process exists to review appeals made by a claimant who disagrees with an initial determination. The steps in the process are set forth in 20 Code of Federal Regulations (C.F.R.) §§ 404.900 *et seq*., 405.1 *et seq*. and 416.1400 *et seq.* The procedures in Part 405 apply only to disability claims filed in SSA's Boston Region on or after August 1, 2006.

[2] 20 C.F.R. §§ 404.1601 *et seq*. and 416.1001 *et seq*.

- The claimant may waive the right to appear at the hearing at which time the ALJ will generally make a decision based on the record and any evidence the claimant may have submitted.

Appeals Council Review[3]

- If a claimant or other party to the claim is dissatisfied with the hearing decision or the dismissal of a hearing request, he/she may ask the Appeals Council to review the ALJ's action. The Appeals Council may grant, deny or dismiss a request for review of a hearing decision or dismissal. If the Appeals Council grants the request for review, it will generally either issue a decision or remand the case to the ALJ for further action. If the Appeals Council concludes that there is no basis under the regulations to review the ALJ's decision or dismissal, it will deny the request for review. If the Appeals Council grants the request for review and issues a decision, this decision becomes SSA's final decision. If the Appeals Council denies the request for review, the ALJ's decision or dismissal is SSA's final decision or action.

Federal Court Review[4]

- If the claimant is dissatisfied with the action of the Appeals Council, he or she may file suit in Federal district court.

[3] SSA POMS – DI 12020.001 – Appeals Council Review.

[4] 20 C.F.R. §§ 404.981 and 416.1481.

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Social Security Advisory Board

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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.

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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.

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