

Subsequent Appellate Actions on Denials Issued by Low-Allowance Administrative Law Judges

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Office of Audit Report Summary

Objective

To analyze subsequent appellate actions on Fiscal Year (FY) 2010 denials issued by 12 low-allowance administrative law judges (ALJ).

Background

A claimant who disagrees with an ALJ's decision may ask for a review by the Office of Disability Adjudication and Review's (ODAR) Appeals Council (AC). The AC may deny, dismiss, or grant the request. If the AC grants the request, it will either (1) issue a decision that affirms, modifies, or reverses the ALJ decision or (2) remand the case to the ALJ with instructions to conduct further proceedings on the case.

ALJ decisions on cases can vary widely. In our February 2012 congressional review, *Oversight of Administrative Law Judge Workload Trends*, we noted that ALJ allowance rates in FY 2010 varied from 9 to 99 percent. We focused on 12 high- and 12 low-allowance ALJs. The allowance rates for these 12 low-allowance ALJs ranged from 9 to 25 percent.

Our Findings

While ALJ decisions on cases may differ for a variety of reasons, including qualified decisional independence, the rate of subsequent actions on denied cases should be relatively consistent among ALJs. Remand and reversal rates on appealed cases can provide indications about the quality of an ALJ's decisions. In addition, time spent processing such cases delays final decisions for affected claimants and reduces the time available for other cases awaiting processing.

For the 12 low-allowance ALJs, we found the following related to their Title II workloads.

- Four had at least 80 percent of their denied cases appealed to the AC, compared to the 67-percent national average. For instance, 84 percent of one ALJ's denied cases were appealed to the AC.
- Six ALJs had AC reversal rates that were more than twice the 2-percent national average. For instance, one ALJ had a 10-percent reversal rate, 5 times the national average.
- One ALJ had a 42-percent AC remand rate, more than twice the 19-percent national average. Overall, the AC remanded the ALJs' decisions at about the same rate as the national average.

ODAR had implemented a number of tools to track ALJ and hearing office performance. However, we believe ODAR could further improve management oversight by

- informing ALJs about the reasons for AC reversals,
- monitoring AC reversal trends to identify ALJs who have high reversal rates, and
- tracking subsequent ALJ actions on remanded cases.

Our Recommendations

We made a number of recommendations to improve the communication and management information related to reversed and remanded cases, and the Agency agreed with all of our recommendations.