The SSA Disability Process from an ALJ's Perspective

Kenton W. Fulton, Administrative Law Judge SSA Office of Hearing Operations Oklahoma City Hearing Office

Disclaimer

- I am not authorized to speak on behalf of the Social Security Administration
- My statements and observations are solely my own, and should not be understood to reflect the views or policy positions of the Social Security Administration
- I am not providing legal advice. It is not uncommon for rules and policies to change over time.



ODA Organization Structure

NDD

NDD Organization Chart

National Disability Determination (NDD) provides operational, administrative, managerial, as well as performance, budget and technical support to 52 state and territory Disability Determination Services who conduct the initial and reconsideration determinations of the SSA-administered disability program.

Quality

Quality Organization Chart

Quality is responsible for conducting ongoing accuracy reviews, special studies, and analyses of SSA's Disability Insurance, Retirement Survivors Insurance (RSI), and Supplemental Security Income (SSI) operations and policies.

Hearings

Hearings Organization Chart

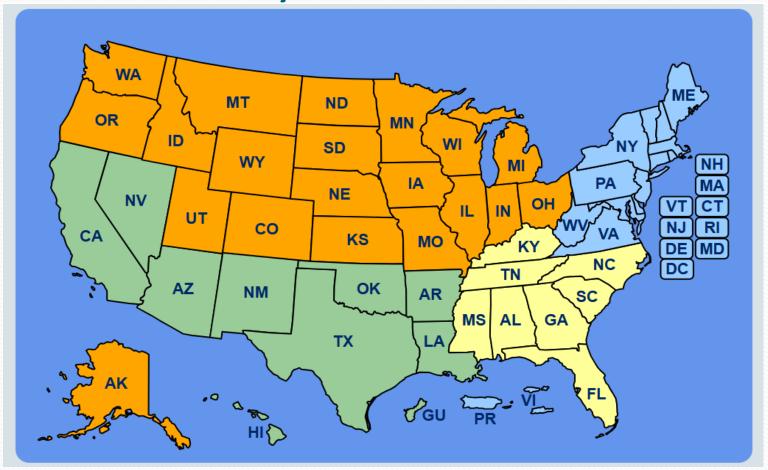
Hearings administers the hearings and appeals program for SSA and provides training, performance management, audit, and data analytics support to ODA.

Appeals

Appeals Organization Chart

Appeals which includes the Appeals Council, serves as the final level of administrative review and appeal for all SSA benefit claims.

2025 Hearing Office Regions - Stay Tuned



Northeast, Southeast, Mid-West/West, Southwest

Some Statistics

- Office of Hearing Operations:
 - 162 Hearing Offices and 5 Satellite Hearing Offices
 - 828 ALJ BUEs
 - ALJ Hearing Requests:

FY 2022 (52 Weeks) *	349,329
FY 2022 (53 Weeks) *	356,666
FY 2023	355,565
FY 2024	362,552

Title II Only – Excluding Children and Widow Applications

Number of applications and awards, and awards per 1,000 insured workers

[Numbers in thousands]

Calendar year	Number of applications	Number of awards	Awards as a percent of applications	Awards per 1,000 insured workers ^a
2020	1,838.9	648.1	35.2	4.1
2021	1,800.4	572.0	31.8	3.6
2022	1,789.6	543.4	30.4	3.4
2023	1,904.6	561.6	29.5	3.5
2024	1,937.0	629.9	32.5	3.9

Program Framework

- Social Security Disability Insurance (SSDI) –
- Title II of the Social Security Act
 - Adult Benefits
 - Spousal Benefits
 - Unmarried Dependent Children Under Age 18 Auxiliary Benefits – no disability required for such benefits
 - Unmarried Dependent Adult Children must establish disability
 - Widow and Widower Benefits age 50 to 59 if disabled within 7 years of spouse's death; age 60 first eligibility otherwise
- Supplemental Security Income (SSI) –
- Title XVI of the Social Security Act
 - Adult Benefits
 - Children Under Age 18
 - Automatic Adult Redetermination at Age 18

SSDI Benefits

- Title II Disability Insurance Program
 - Insured Status
 - 20 Quarters
 - \$250 threshold in 1978, \$1,810 in 2025
 - "First Insured" date first eligible for SSDI
 - "Date Last Insured" (DLI) date last eligible for SSDI
 - Sufficient earnings in 5 of last 10 years
 - Established onset must be no later than DLI

SSDI Benefits (continued)

- Duration of Disability
 - 12 months, expected to last 12 months, or expected to result in death
- Continuing Disability Review (CDR)
- SGA Limits -
 - Monthly Non-Blind SGA Limit for
 - 2025 \$1,620 (\$19,440 annually)
 - 2026 \$1690 (\$20,280 annually)
 - Monthly Blind SGA Limit is Higher
 - 2025 \$2,700 (\$32,400 annually)
 - 2026 \$2830 (\$33,960 annually)

SSDI Benefits (continued)

Trial Work Period

- During a trial work period, a beneficiary receiving Social Security disability benefits on the basis of his or her own earnings history may test his or her ability to work and still be considered disabled.
- Work performed does not impact disability benefits until services have been performed in at least 9 months (not necessarily consecutive) in a rolling 60-month period.
- Wage Threshold lower than SGA Limits
 - 2025 \$1,160 per month; 2026 \$1,210 per month
- SSDI Only no Trial Work Period with SSI Benefits

Supplemental Security Income (SSI)

- Title 16 Supplemental Security Income Program
 - Same rules for finding disability as in Title II
 - Poverty program significant income limits and caps
 - For 2025, maximum SSI Payment
 - \$967 for an individual
 - \$1,450 for a couple
 - For every \$2 earned from work, SSI payment is reduced by \$1
 - For every \$1 received from non work sources, reduce by \$1
 - Examples include pensions, disability benefits, unemployment

- Resource Limits vehicles and money in banks
 - \$2,000 for individuals
 - \$3,000 for couples
 - For a parent applying for a child, resource limits:
 - \$4,000 for individuals
 - \$5,000 for couples
- Citizens age 65 and older don't require a disability to receive SSI

- Child SSI Benefits
 - Complex "deeming" rules around family income which are beyond the scope of this presentation. Key takeaway is that there are income limits for eligibility some income is not countable, and number of children can impact the limit.
 - The child must have a physical or mental condition, or a combination of conditions, that result in "marked and severe functional limitations" or be blind
 - The child's condition(s) must have been disabling, or be expected to be disabling, for at least 12 months, or the condition(s) must be expected to result in death.

- Child SSI (continued)
- If Child Listing is not Met, Examine Six Domains of Functioning Acquiring and Using Information
 - Acquiring and Using Information
 - Attending and Completing Tasks
 - Interacting and Relating with Others
 - Moving About and Manipulating Objects
 - Caring for Self
 - Health and Physical Well Being

- Child SSI (continued)
- If Severe in one Domain or Marked in 2 or more domains, then disability is established
- At age 18, adult redetermination takes place and need establish disability under adult rules for continued benefits

- SSDI and SSI Application Process
 - DDS Initial and Reconsideration Levels
 - Administrative Law Judge Hearing
 - Appeals Council
 - United States District Court

- ALJ Hearings
 - Timely Request for Hearing after Reconsideration
 Denial 60 days (absent good cause)
 - ALJ Hearing Participants
 - Claimants and Representatives
 - Fee Agreements
 - Vocational Experts
 - Medical Experts
 - Hearing Reporters
 - Other Witnesses
 - Typical Hearings for Adults and Children

Procedural Issues in Disability Adjudication

- New Applications Following a Denial that becomes final
- Reopening of Prior Denial Determinations and Decisions
 - For any reason within twelve months of the date of notice of the initial determination
 - For good cause within four years for a Title II claim and two years for a Title XVI claim from the date of notice of the <u>initial</u> determination
 - At any time, if the determination or decision was obtained by fraud or similar fault – see 20 CFR 404.988(c)

Procedural Issues (continued)

- Continuing Disability Reviews (CDRs)
 - Most disability insurance or supplemental security income awards are reviewed periodically, from 6 months to 7 years
 - After an initial cessation determination, the person has the right to file a Request for Reconsideration and meet in person with a Disability Hearing Officer (DHO)
 - After a DHO determination ceases benefits, the person has 60 days to request a hearing before an ALJ, and 10 days to request continued benefits pending appeal.
 - ALJ follows 8 step process that look at medical improvement and whether criteria for continued benefits are met.

Procedural Issues (continued)

- Appeals Council and USDC Remands
 - Same ALJ unless it is second remand on the claim
 - Remand Order gives instructions on error and remedial steps
 - Appeals Council Own Motion Reviews
 - Can review decision or dismissal within 60 days even in absence of claimant appeal
 - Most often seen with ALJ awards of benefits
- Interplay with VA Disability Process and Workers Compensation programs
 - Different Eligibility Criteria
 - Related Medical Records are considered

Questions?

Reference Materials

- **Disability Benefits**, Social Security Administration, Publication No. 05-10029, February 2025
- Fact Sheet: Social Security Disability Insurance, Social Security Administration, Publication No. 05-11001, September 2022
- Understanding Supplemental Security Income 2024
 Edition, Social Security Administration, Publication No. 17-008,
 April 2024
- **Supplemental Security Income**, Social Security Administration, Publication No. 05-11000, November 2024
- Fact Sheet: Supplemental Security Income, Social Security Administration, Publication No. 05-11002, January 2025

Reference Materials (cont'd)

- Are You Eligible for Supplemental Security Income (SSI)?, Social Security Administration, Publication No. 05-11003, January 2025
- A Guide to Supplemental Security Income (SSI) for Groups and Organizations, Social Security Administration, Publication No. 05-11015, January 2025
- Benefits for Children with Disabilities, Social Security Administration, Publication No. 05-10026, January 2025
- Various SSA Organizational Charts and Data in Power Point Presentation, www.ssa.gov

The End!