

National Council of Disability Determination Directors
Written Statement: October 26, 2023 Social Security Subcommittee Hearing

At the October 26, 2023, Congressional Social Security Subcommittee Hearing, “One Million Claims and Growing: Improving Social Security’s Disability Adjudication Process”, a proposal was discussed to move Reconsideration cases from the Disability Determination state agencies to the Office of Hearing Operations for adjudication by Administrative Law Judges. As President of the National Council of Disability Determination Directors (NCDDD), I did not have an opportunity to provide input, therefore I am providing a written statement for the record. In the last week I have received input from over 30 Disability Determination state agencies with regard to the proposal for Reconsideration cases to move from the Disability Determination state agency to the Office of Hearing Operations (OHO) for processing by an Administrative Law Judge (ALJ), thus I am providing a well-considered position.

Every Disability Determination state agency follows the required SSA policy, DI 27001.001 – The Reconsideration Process, to assign different reviewers to the Reconsideration case. The Disability Examiner and Medical or Psychological Consultant must be different from the reviewers who made the initial determination. Reconsideration of a case involves a thorough, independent review of all evidence from the initial determination and any new evidence the claimant or another individual submits in connection with the request for reconsideration.

In considering processing time of Reconsideration cases and if it would be faster for claimants to receive a decision if processed at the SSA hearing office level, the American Association of Retired Persons (AARP) [reports](#), “According to SSA data, the average for individual hearing offices in October 2022 ranged from 8 to 24 months. Waits have increased considerably in the past year; in October 2021, the range among field offices was 5 to 16 months and national average was nine months.”. A quick review of October 2023 national data indicates the wait time has not shortened but has increased from when the request for hearing is received until the hearing is held. With regard to reasons a case is overturned at the Adjudicative Law Judge hearing level, it must be noted that time has passed while the claimant is waiting for a hearing and their condition worsens or their age has changed so the policy is applied according to their new medical evidence with the worsened condition or increased age.

As of November 3, 2023, the national average processing time for Reconsideration cases at the Disability Determination state agency is 6 months.

The majority of Disability Determination Directors from states across the nation shared the following:

- The first level of appeal, Reconsideration cases, should be at the Disability Determination state agency.
- Reconsideration cases are part of the internal Quality Assurance review for Disability Determination state agencies.
- If Reconsideration cases are not adjudicated at the Disability Determination state agency it will contribute to a high backlog of cases with Administrative Law Judges.
- Reconsideration cases are reviewed by SSA’s quality branch and the national average accuracy of these claims is consistently higher than 97%.
- If the Reconsideration caseload were moved from the Disability Determination state agency to Administrative Law Judges that would move the problem, not address the problem.

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Proposals for Consideration:

1. The Social Security Administration (SSA) providing additional resources to Disability Determination state agencies, such as a SSA Disability Processing Unit, with a focus on Reconsideration cases. There are some Disability Determination state agencies receiving adjudication support from SSA through this teamwork approach with Initial cases and this has benefited claimants.
2. Provide consistent hiring authority to Disability Determination state agencies, at a minimum allow Disability Determination state agencies to hire up to their approved October 2023 budgeted Personnel costs. This level of funding has been approved and provided to Disability Determination state agencies and would allow for more stability with workforce planning to support all workloads, including Reconsideration.
3. Provide consistent overtime for all caseloads so that additional trained Disability Examiners can work more hours on pending disability claims.
4. SSA should update vocational resources such as the Dictionary of Occupational Titles (DOT) and continue work with Disability Determination state agencies on revising onerous polices and restrictions.
5. It is noted that in 2015, more than one million claimants were waiting for decisions from an Administrative Law Judge and the average claim processing time for the ALJ was 512 days. There was a plan put in place by SSA, the Compassionate and Responsive Service (CARES) plan. This plan was funded and supported the desired outcome of stronger customer service to claimants. The National Council of Disability Determination Directors requests for funding and teamwork with Congress and the Social Security Administration for a plan to address the SSA Disability Program crisis.

Your consideration of this written statement is appreciated. The National Council of Disability Determination Directors values the working relationship and people-focused work that Congress has taken in response to the need for stronger customer service to people applying for disability benefits. We are better together in our work for the public.

With respect,

Jacqueline Russell, President
National Council of Disability Determination Directors