



Office *of the* Inspector General

SOCIAL SECURITY ADMINISTRATION

Congressional Response Report

Disability Applications Denied
Because of Claimants' Ability to
Work

A-01-17-50222 / March 2017

OIG Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

March 7, 2017

The Honorable Michael B. Enzi
Chairman, Committee on the Budget
United States Senate
Washington, DC 20510-6100

Dear Mr. Chairman:

On November 7, 2016, you requested that we gather specific information on claimants who were denied Disability Insurance benefits or Supplemental Security Income payments because of their ability to work. The enclosed report contains the information you requested.

To ensure the Agency is aware of the information provided to your office, we are forwarding a copy of this report to the Agency. If you have any questions concerning this matter, please call me or have your staff contact Walter Bayer, Congressional and Intragovernmental Liaison, at (202) 358-6319.

Sincerely,



Gale Stallworth Stone
Acting Inspector General

Enclosure

cc:
Nancy A. Berryhill

Disability Applications Denied Because of Claimants' Ability to Work

A-01-17-50222



March 2017

Office of Audit Report Summary

Objective

To gather specific information on claimants who were denied Disability Insurance (DI) benefits or Supplemental Security Income (SSI) payments because of their ability to work.

Background

When a claimant applies for DI or SSI, the Social Security Administration (SSA) uses a 5-Step sequential evaluation process to determine whether the claimant is disabled. At Step 4, SSA considers a claimant's past relevant work, and, if the claimant is able to perform his/her past relevant work, the claimant would not be considered disabled. At Step 5, SSA considers a claimant's age, education, and work experience to determine whether the claimant could adjust to other work. If so, SSA does not consider the claimant disabled.

On November 7, 2016, the Senate Committee on the Budget requested specific information on claimants who were denied SSA disability payments because of their ability to work.

Conclusion

We identified about 1.1 million claimants who were denied DI or SSI disability payments in Calendar Year 2013 at the initial claims decision level because of their ability to work. The claimants' average earnings before the disability denial was \$12,160. Additionally, 445,696 claimants had earnings after their disability denial, with the average annual earnings after denial being \$3,814.

Based on our sample, we estimate 852,400 claimants either appealed or re-applied after their denial at the initial level in Calendar Year 2013. Of the claimants who appealed or re-applied, we estimate 406,300 were approved for disability payments, and 346,500 were receiving approximately \$4.4 billion per year in DI and SSI payments as of November 2016. Most individuals in our sample had claims approved after reapplying or on appeal because of new impairments or their impairments had worsened. Additionally, we estimate 191,200 individuals had earnings indicating potential substantial gainful activity after they were denied in Calendar Year 2013 because of their ability to work.

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ABBREVIATIONS

C.F.R.	Code of Federal Regulations
CY	Calendar Year
DI	Disability Insurance
OIG	Office of the Inspector General
POMS	Program Operations Manual System
SGA	Substantial Gainful Activity
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

OBJECTIVE

Our objective was to gather specific information on claimants who were denied Disability Insurance (DI) benefits or Supplemental Security Income (SSI) payments because of their ability to work.

BACKGROUND

When a claimant applies for DI benefits or SSI disability payments under the *Social Security Act*,¹ the Social Security Administration (SSA) uses a 5-Step sequential evaluation process to determine whether the claimant is disabled.² At Step 4, SSA considers a claimant's past relevant work, and, if the claimant can still perform the past relevant work, SSA will not consider the claimant disabled.³ If the claimant has no past relevant work or is unable to perform such work as he/she actually or generally performed it, SSA considers at Step 5 the claimant's age, education, and work experience to determine whether the claimant can adjust to other work, and if so, SSA will not consider the claimant disabled.⁴ (See Appendix A for additional information on SSA's sequential evaluation process.)

On November 7, 2016, the Senate Committee on the Budget requested we gather information on individuals denied DI benefits or SSI payments because of their ability to work.⁵ Specifically, based on the Committee's request, we obtained the following information.⁶

- The type of claim the individual applied for that resulted in the Calendar Year (CY) 2013 denial.
- The claimant's age when initially denied disability in CY 2013 as well as the claimant's gender.
- The body system affected by the primary impairments listed on the claimant's disability applications, along with primary diagnosis codes.
- The average earnings for 10 years before the claimant's initial disability denial.
- The average earnings for 2 years after the claimant's initial disability denial.

¹ *Social Security Act*, §§ 223 *et seq.* and 1611 *et seq.*, 42 U.S.C. §§ 423 *et seq.* and 1382 *et seq.*

² 20 C.F.R. §§ 404.1520(a)(4) and 416.920(a)(4).

³ 20 C.F.R. §§ 404.1520(a)(4)(iv) and 416.920(a)(4)(iv).

⁴ 20 C.F.R. §§ 404.1520(a)(4)(v) and 416.920(a)(4)(v).

⁵ Based on feedback from the Senate Committee on the Budget staff when we were planning the review, we focused on claimants denied at Steps 4 and 5 of SSA's 5-Step sequential evaluation process.

⁶ We selected disability claims denied in CY 2013 since we wanted to determine what happened after the claims were denied (that is, did the claimant appeal or re-apply and what was the outcome) and we needed sufficient time to elapse for the appeal process. Also, the congressional request asked for earnings information 2 years after the denial; therefore, by selecting CY 2013, we could analyze earnings data for CYs 2014 and 2015.

- The type of wages the claimant earned.
- Whether the denial occurred at Step 4 or 5 of SSA's 5-Step sequential evaluation process.

Additionally, the Committee requested, for a sample of the population, how many claimants

- appealed the CY 2013 initial disability denial or filed a new claim,
- were subsequently allowed disability benefits after denial and at which decision level (initial, reconsideration, hearing, or appeals council) the allowance was made,
- had earnings indicating potential substantial gainful activity (SGA) after the initial disability denial,⁷
- had other reasons for not receiving disability payments (for example, deceased, in prison, or not eligible), and
- were denied at Step 4 of SSA's sequential evaluation process because of part-time work.

See Appendix B for the congressional request.

To conduct our review, we identified a population of 1,095,345 claimants denied DI or SSI disability payments in CY 2013 at the initial claims decision level because of their ability to work. We selected a random sample of 275 for further analysis. See Appendix C for our scope, methodology, and sample results.

RESULTS OF REVIEW

We identified 1,095,345 claimants denied DI or SSI payments in CY 2013 at the initial claims decision level because of the claimants' ability to work. (See Appendix D for a breakout by location.) The average annual earnings for the claimants before the disability denial was \$12,160.⁸ Additionally, 445,696 claimants had earnings after their disability denial, with average annual earnings of \$3,814.

⁷ 20 C.F.R. §§ 404.1572 and 416.972. SGA is the performance of physical and/or mental activities in work for pay or profit or of a type generally performed for pay or profit, even if done part-time. For non-blind individuals, countable earnings indicate SGA, and countable income of the self-employed is substantial if the monthly amount averages more than \$1,170 for CY 2017, \$1,130 for CY 2016, \$1,090 for CY 2015, and \$1,070 for CY 2014. For blind individuals, employees' countable earnings indicate SGA, and countable income of the self-employed is substantial if the monthly amount averages more than \$1,950 for CY 2017, \$1,820 for CYs 2016 and 2015, and \$1,800 for CY 2014. SSA, POMS, DI 10501.015 (October 19, 2016).

⁸ To determine the average annual earnings, we calculated a 10-year annual average from CYs 2003 through 2012 for the population we identified, which included 118,934 claimants who did not have any earnings over the 10-year period. Additionally, some claimants may not have worked all 10 years.

Based on our sample, we estimate about 852,400 claimants either appealed or re-applied after their denial at the initial level in CY 2013.⁹ Of the claimants who appealed or re-applied, we estimate 406,300 (47.7 percent) were approved for disability payments, and 346,500 of these were receiving approximately \$4.4 billion per year as of November 2016.¹⁰ Most individuals in our sample had claims approved after reapplying or on appeal because of new impairments or their impairments had worsened. Additionally, we estimate 191,200 individuals had earnings indicating potential SGA after SSA denied their claims because of their ability to work.

Characteristics of the Population of Claimants Denied at the Initial Level in CY 2013 for the Ability to Work

Type of Claim

Table 1 shows the type of claim the individuals filed.

Table 1: Claim Types

Type of Claim	Claimants	
DI Only	360,679	32.9%
SSI Only	304,111	27.8%
Both DI and SSI	430,555	39.3%
Total	1,095,345	100.0%

⁹ If the claimant disagrees with the Agency's initial disability determination, he/she can file an appeal within 60 days of the date of notice of the determination. In most cases, there are four levels of review: (1) reconsideration by the disability determination services, (2) hearing by an administrative law judge, (3) review by the Appeals Council, and (4) review by the Federal Courts. 20 C.F.R. §§ 404.900(a) and 416.1400(a). SSA, POMS, DI 12005.000 (February 27, 2003), DI 12010.000 (December 12, 2002), DI 12020.000 (September 20, 2011), and SI 04005.010 (September 9, 2011).

¹⁰ We estimate 266,900 individuals were receiving \$3.7 billion per year for DI benefits and 107,500 individuals were receiving \$706.3 million per year for SSI payments. These totals also include concurrent beneficiaries, which are individuals who were receiving both DI and SSI.

Age and Gender Information

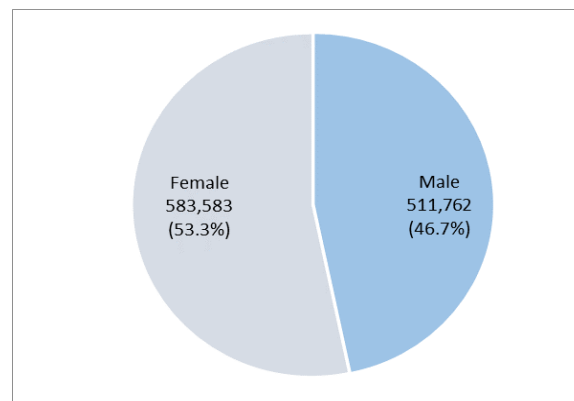
Table 2 shows the ages for the claimants in our population when they were initially denied disability payments.¹¹ The claimants' average age¹² at the denial was 43-years-old.¹³

Figure 1 shows the gender of the claimants in our population.

Table 2: Claimants' Ages at Initial Disability Denial

Claimants' Ages	Claimants	
30 years old and younger	199,750	18.2%
31 to 40 years old	219,640	20.0%
41 to 50 years old	343,536	31.4%
51 to 60 years old	283,586	25.9%
61 to 65 years old	48,221	4.4%
Over 65 years old	612	0.1%
Total	1,095,345	100.0%

Figure 1: Gender



¹¹ When we tested the data reliability of the date of birth field in the SSA-831-disability file that was used to identify the population, we identified 11 claimants whose dates of birth were incorrect. We corrected these data based on information in SSA's Numident file, and the correct dates of birth are reflected in Table 2. SSA's Numident file contains personally identifiable information on individuals assigned a Social Security number. SSA, POMS, GN 03325.025 (April 2, 2014).

¹² To calculate the average age, we determined how old the claimants were when they received the initial denial determination in CY 2013 based generally on the date of birth in SSA's 831-disability file. The 831-disability file documents the disability decision on an initial disability claim. Our population included (a) 98 aged noncitizen claimants and their spouses who were age 65 or older when denied SSI (SSA, POMS, DI 11055.105, (September 24, 2012)); (b) 528 individuals who were full retirement age or older when denied, but who filed for a period of disability before full retirement age; (c) 9 individuals who were denied at age 65 or older for childhood DI benefits; and (d) 138 individuals who were age 65 or older when denied SSI disability benefits (134 were under age 65 when they applied, and the remaining 4 needed blindness determinations).

¹³ In one claim, the corrected date of birth showed the claimant was 5-years-old when denied benefits. Otherwise, the claimants' ages in the population ranged from a low of 18 to a high of 88.

Body System and Primary Diagnosis

Table 3 shows the body system listed in the claimants' initial disability application that was denied in CY 2013, with Musculoskeletal and Mental Disorders being the most common body systems. Table 4 shows the primary diagnoses SSA assessed for the claimants, with Disorders of Back and Affective Disorders being the most common primary diagnoses.

Table 3: List of Body Systems

Body System	Claimants	
Musculoskeletal System	433,523	39.6%
Mental Disorders	304,574	27.8%
Cardiovascular System	71,287	6.5%
Neurological	70,342	6.4%
Endocrine Disorders	42,267	3.9%
Respiratory System	38,100	3.5%
Special/Other	34,479	3.1%
Immune System Disorders	27,940	2.6%
Digestive System	25,636	2.3%
Special Senses and Speech	19,812	1.8%
Cancer	12,021	1.1%
Genitourinary Impairments	7,079	0.7%
Hematological Disorders	4,381	0.4%
Skin Disorders	3,805	0.3%
Congenital Disorders that Affect Multiple Body Systems	92	0.0%
Growth Impairment	7	0.0%
Total	1,095,345	100.0%

Table 4: Top Diagnoses

Diagnosis	Claimants	
Disorders of Back	248,955	22.7%
Affective Disorders	180,962	16.5%
Other and Unspecified Arthropathies	69,538	6.4%
Osteoarthritis and Allied Disorders	62,623	5.7%
Anxiety Related Disorders	45,259	4.1%
Diabetes Mellitus	32,225	2.9%
Epilepsy (Major Motor Seizures)	24,897	2.3%
Disorders of Muscle, Ligament and Fascia	18,809	1.7%
Obesity	17,698	1.6%
Chronic Ischemic Heart Disease	17,569	1.6%
Chronic Pulmonary Insufficiency	17,395	1.6%
Essential Hypertension	17,095	1.6%
Organic Mental Disorders	14,207	1.3%
Schizophrenia	14,101	1.3%
Asthma	13,939	1.3%
All Others	300,073	27.4%
Total	1,095,345	100.0%

Average Annual Earnings Before and After CY 2013 Initial Disability Denial

The claimants' average annual earnings before the disability denial was \$12,160 and ranged from a low of \$0 to a high of \$3.8 million. Table 5 shows the claimants' average annual earnings over a 10-year period (CYs 2003 through 2012), before their disability denial.¹⁴

¹⁴ Individuals may have had earnings in CY 2013, but we did not include them when we calculated the annual average, as we were unable to determine whether the CY 2013 earnings were before the CY 2013 disability denial.

Table 5: Average Annual Earnings Before Disability Denial

Average Annual Earnings	Claimants	
\$0	118,934	10.9%
\$1 to \$10,000	533,873	48.8%
\$10,001 to \$20,000	223,799	20.4%
\$20,001 to \$30,000	107,591	9.8%
\$30,001 to \$40,000	51,651	4.7%
\$40,001 to \$50,000	26,220	2.4%
\$50,001 to \$60,000	13,880	1.3%
\$60,001 to \$70,000	7,486	0.7%
\$70,001 to \$80,000	4,238	0.4%
\$80,001 to \$90,000	2,617	0.2%
\$90,001 to \$100,000	1,478	0.1%
Over \$100,000	3,578	0.3%
Total	1,095,345	100.0%

Of the 1,095,345 denied claims, 445,696 (40.7 percent) had earnings after the denial decision. The average annual earnings after the disability denial was \$3,814 and ranged from a low of \$0 to a high of \$856,419. Table 6 shows the claimants' average annual earnings over the 2-year period (CYs 2014 and 2015) after their disability denial.¹⁵

Table 6: Average Annual Earnings After Disability Denial

Average Annual Earnings	Claimants	
\$0	649,649	59.3%
\$1 to \$10,000	297,042	27.1%
\$10,001 to \$20,000	96,156	8.8%
\$20,001 to \$30,000	29,813	2.7%
\$30,001 to \$40,000	11,363	1.0%
\$40,001 to \$50,000	5,085	0.5%
\$50,001 to \$60,000	2,581	0.2%
\$60,001 to \$70,000	1,392	0.1%
\$70,001 to \$80,000	848	0.1%
\$80,001 to \$90,000	465	0.1%
\$90,001 to \$100,000	311	0.0%
Over \$100,000	640	0.1%
Total	1,095,345	100.0%

¹⁵ Individuals may have had earnings in CY 2013, but we did not include them when calculating the annual average, as we were unable to determine whether the CY 2013 earnings were after the CY 2013 denial.

Type of Wages

We obtained wage item data from SSA's Master Earnings File to determine the type of wages by industry the claimants in our population earned before and after their denial.¹⁶ Since an employee may have worked more than one job in a year, the number of wage items reported is greater than the number of individuals in our population who had work activity. Table 7 shows the number of wage items for the claimants identified in our population with earnings before (CYs 2003 through 2012) and after (CYs 2014 through 2015) their disability claim denial in CY 2013. Almost 90 percent of all wage items were categorized as regular wages.

Table 7: Wage Item Categories

Category	Number of Wage Items	
	2003-2012	2014-2015
Regular Wages	11,026,872	1,134,315
Self-Employment	718,447	96,461
Tips	356,829	38,006
Military	129,559	1,636
Household	79,947	9,439
Agriculture	59,840	6,966
Railroad	2,266	182
Total	12,373,760	1,287,005

Initial Denials in CY 2013 at Step 4 or 5 of SSA's Sequential Evaluation Process

SSA uses a 5-Step sequential evaluation process to determine whether the claimant is disabled.¹⁷ At Step 4, SSA considers a claimant's past relevant work. If the adjudicator determines the claimant can still perform the past relevant work, SSA would consider him/her disabled.¹⁸ At Step 5, SSA considers a claimant's age, education, and work experience to determine whether the claimant could adjust to other work. If so, SSA would not consider the claimant disabled.¹⁹ Table 8 shows the number of claimants in our population initially denied at Step 4 or 5 of SSA's 5-Step sequential evaluation process.

¹⁶ A wage item is an individual employee report prepared by employers on a Form W-2 (*Wage and Tax Statement*) after the close of the CY that shows wages paid, taxes withheld during the prior CY, and broad industry codes to describe the wage category an individual earned (that is self-employment, tips, etc.). If individuals had more than one employer during a year, they would have received more than one Form W-2.

¹⁷ 20 C.F.R. §§ 404.1520(a)(4) and 416.920(a)(4).

¹⁸ 20 C.F.R. §§ 404.1520(a)(4)(iv) and 416.920(a)(4)(iv).

¹⁹ 20 C.F.R. §§ 404.1520(a)(4)(v) and 416.920(a)(4)(v).

Table 8: Initial Denial at Step 4 or 5

Step in SSA's Sequential Evaluation Process	Claimants	
Step 4 – Ability to perform past relevant work	273,581	25.0%
Step 5 – Ability to perform other work	821,764	75.0%
Total	1,095,345	100.0%

Sample Results

Appealed or Filed a New Claim After the CY 2013 Initial Denial and Outcome

As of November 2016, of the 275 sampled claimants denied because of their ability to work,

- 214 (77.8 percent) had either appealed or re-applied²⁰
 - 102 subsequently received allowance decisions;
 - 68 subsequently received denial decisions;
 - 25 subsequently had their claims dismissed; and
 - 19 were still pending a decision on their appeal or new claim as of November 2016.
- 61 (22.2 percent) had not appealed or re-applied.

Additionally, as of November 2016, of the 275 claimants in our sample,

- 87 (31.6 percent) were receiving approximately \$1.1 million in annual disability benefits²¹ and
- 188 (68.4 percent) were not receiving a disability benefit.

Subsequently Allowed After CY 2013 Initial Denial

As of November 2016, 102 claimants had received allowance decisions on their appeals or new claims. Table 9 shows the claimants who appealed or filed a new claim, along with the level of the allowance decision.

²⁰ Of the 214 claimants, 159 appealed their CY 2013 denial and 55 filed new claims after the CY 2013 denial.

²¹ Of the 102 claimants who were subsequently allowed, only 87 were collecting DI or SSI disability payments as of November 2016. The remaining 15 claimants were not receiving a payment in November 2016. Of the 15, 7 received a closed period of disability, 4 were deceased, 2 converted to retirement benefits, 1 was suspended for failure to cooperate with SSA, and 1 was ineligible for SSI because of a spouse's income. Of the 87 claimants who were collecting DI or SSI disability payments as of November 2016, none had earnings indicating potential SGA after they were allowed benefits.

Table 9: Claimants Allowed on Appeal or New Claim

Level of Allowance Decision	Appeal of 2013 Denial	New Claim After 2013 Denial	Total
Initial	0	10	10
Reconsideration	11	2	13
Hearing	76	2	78
Appeals Council	1	0	1
Total	88	14	102

Earnings Indicating Potential SGA and Other Reasons for Not Receiving Disability Benefits

Our review of SSA's records showed that 48 of the 188 claimants who were not receiving a disability benefit as of November 2016 had earnings indicating potential SGA after their CY 2013 initial denial.²² Table 10 shows reasons the claimants were not receiving a disability benefit as of November 2016.

Table 10: Reasons Why Not Receiving a Disability Benefit as of November 2016

Reason	Claimants	
Claimant had earnings indicating potential SGA ²³	48	25.5%
Claimant had a new claim pending or an appeal pending	17	9.1%
Claimant was receiving retirement or widows benefits	11	5.9%
Claimant was in prison	9	4.8%
Claimant was deceased	4	2.1%
Claimant received disability benefits for a closed period of disability ²⁴	3	1.6%
Claimant did not provide information to SSA	1	0.5%
Spouse's income was too high for claimant to receive SSI	1	0.5%
Claimant never medically allowed for disability benefits	94	50.0%
Total	188	100.0%

²² Earnings indicated potential SGA if they were above \$12,840 in CY 2014 or \$13,080 in CY 2015. For non-blind individuals, countable earnings indicate SGA if the amount averages more than \$1,070 per month for CY 2014 and \$1,090 per month for CY 2015. SSA, POMS, DI 10501.015 (October 19, 2016).

²³ Four of the 48 claimants in this category received benefits for a closed period of disability, and all 4 claimants returned to work. Two of the 48 claimants also had new claims pending as of November 2016.

²⁴ A closed period of disability is a period of disability with a definite beginning and ending date that the adjudicator establishes at the time of adjudication. SSA, POMS, DI 25510.001 (July 6, 2015).

Initial Denials in CY 2013 Because of Ability to Return to Part-time Work

Most of the 275 claimants in our sample indicated in their disability application that they had some type of employment before they filed for disability benefits. At Step 4 of SSA's 5-Step sequential evaluation process, SSA must limit analysis to a function-by-function comparison of the claimant's abilities with the demands of his/her prior work as the claimant actually performed it or as generally performed in the national economy.²⁵ SSA will find the claimant not disabled if his/her abilities are consistent with the demands of his/her prior work. One of the factors not considered is whether the claimant worked full- or part-time.²⁶ Of the 275 claimants,

- 130 (47.3 percent) stated they worked full-time jobs;²⁷
- 40 (14.5 percent) stated they worked part-time jobs;
- 85 (30.9 percent) stated they worked both full- and part-time jobs; and
- 20 (7.3 percent) stated they did not work.

Furthermore, of the 275 claimants in our sample, SSA denied

- 65 at Step 4 of SSA's 5-Step sequential evaluation process and determined
 - 53 (81.5 percent) could return to past relevant work employment positions the claimants stated were full-time jobs, and
 - 12 (18.5 percent) could return to past relevant work employment positions the claimants stated were part-time jobs.
- 210 at Step 5 and determined these individuals had the ability to perform work other than their past relevant work. SSA makes this determination by assessing the claimant's residual functional capacity (that is, the most a claimant can do despite his/her limitations or restrictions)²⁸ and determining whether the claimant can make an adjustment to work other than past relevant work that exists in significant numbers in the national economy. SSA uses

²⁵ The function-by-function comparison considers physical abilities, such as standing, walking, and lifting as well as mental abilities, such as concentration. SSA, POMS, DI 24510.006 (October 14, 2016).

²⁶ 20 C.F.R. §§ 404.1572 and 416.972. SSA, POMS, DI 25005.001 (September 19, 2011).

²⁷ We considered a claimant to have worked a full-time job if disability application documents noted the person claimed to have worked a minimum of 40 hours per week.

²⁸ Ordinarily, the residual functional capacity is the individual's maximum remaining ability to do sustained work activities (1) in an ordinary work setting; (2) regularly and continually; and (3) for 8 hours a day, 5 days a week, or an equivalent work schedule. However, if the individual is unable to sustain a 40-hour workweek because of a severe medically determinable impairment, the adjudicator or medical consultant must address sustainability in the residual functional capacity. SSA, POMS, DI 24510.057 (March 24, 2016).

the *Dictionary of Occupational Titles*²⁹ to determine whether jobs exist in the national economy.³⁰

Sample Case Examples

Claimants Allowed on Appeal or New Application

As of November 2016, 102 claimants had received allowance decisions on their appeals or new claims filed after the initial disability denial.³¹ Additionally, during the appeal or new claims process for the 102 claimants,

- 66 (64.7 percent) were diagnosed with new impairments;
- 17 (16.7 percent) demonstrated their original impairments had worsened; and
- 19 (18.6 percent) did not have new impairments or claimed their original impairments had worsened.

Furthermore, as of November 2016, 87 of the 102 claimants were receiving about \$1.1 million, annually, in disability payments.³² Table 11 shows the annual disability payments the claimants received.

Table 11: Annual SSA Disability Payments Received

Disability Type	Number of Claimants	Annual Payments
DI	67	\$927,061
SSI	27	\$177,315
Total³³	94	\$1,104,376

For example, a claimant from Washington with a primary diagnosis of affective disorder applied for SSI disability in July 2013. In October 2013, the claimant received an initial denial determination at Step 5 of SSA's sequential evaluation process because of her ability to perform

²⁹ U.S. Department of Labor, *Dictionary of Occupational Titles*, Fourth Edition, Revised 1991. SSA is developing its own Occupational Information System to replace its reliance on the *Dictionary of Occupational Titles*.

³⁰ At the hearing level, in addition to the *Dictionary of Occupational Titles*, administrative law judges usually rely on the opinions of independent vocational experts to determine whether jobs exist in the national economy for an individual with the claimant's residual functional capacity and vocational profile.

³¹ As of November 2016, SSA had not completed any reviews of work activity for the 102 claimants; however, SSA had completed 1 review of the claimant's medical condition and 13 SSI redeterminations for 14 of the 102 claimants.

³² Reasons why claimants were not receiving DI or SSI disability payments include (1) death, (2) earnings indicating potential SGA, or (3) converted to retirement benefits as of November 2016.

³³ Total claimants do not equal 87 because 7 claimants were concurrent beneficiaries; therefore, they were receiving both DI and SSI payments and are included in both our DI and SSI counts.

other work. The claimant appealed the denial and received an allowance decision at the hearing level in May 2015. The claimant's original impairment worsened during the appeals process. As of November 2016, she was receiving a monthly SSI disability payment of \$733.

In another example, a claimant from Georgia with a primary diagnosis of essential hypertension applied for SSI disability in July 2012. In January 2013, the claimant received an initial denial at Step 5 of SSA's sequential evaluation process because of his ability to perform other work. The claimant appealed the denial and received an allowance decision at the hearing level in July 2014. During the appeals process, the claimant was diagnosed with new impairments of myopia and depression. The claimant received monthly SSI payments in September 2014 until September 2015, when the claimant died.³⁴

Claimants Denied on Appeal or New Application After the CY 2013 Denial

As of November 2016, 68 claimants had received denial decisions on their appeals or new claims filed after the initial disability denial. The 68 claimants were denied for the following reasons:

- 49 (72.1 percent) had the ability to perform other work;
- 12 (17.6 percent) had the ability to perform past relevant work;
- 3 (4.4 percent) failed to cooperate with SSA;
- 2 (2.9 percent) had too much income to be eligible for SSI;
- 1 (1.5 percent) did not want to continue with the claim; and
- 1 (1.5 percent) had an impairment not considered severe.

For example, a claimant from Oregon with a primary diagnosis of inflammatory bowel disease applied for both DI and SSI in October 2012. In February 2013, the claimant received an initial denial determination at Step 4 of SSA's sequential evaluation process because of her ability to perform past relevant work. The claimant appealed the denial and received a denial decision in January 2015 at the hearing level for the same reason.

In another example, a claimant from Washington with a primary diagnosis of dermatitis applied for both DI and SSI disability payments in December 2012. In April 2013, the claimant received an initial denial determination at Step 4 of SSA's sequential evaluation process because of her ability to perform past relevant work. The claimant appealed the denial and received another denial determination in September 2013 at the reconsideration level for the same reason. The individual had earnings indicating potential SGA after the CY 2013 disability denial, meaning a possible return to work.

³⁴ We did not determine if the claimant died because of his disability.

Claimants Dismissed on Appeal or Re-application

As of November 2016, 25 claimants had their appeals or new claims dismissed at the hearing level. Reasons for the 25 dismissals were as follows:

- 19 (76 percent) of the claimants did not appear for their scheduled hearing, and
- 6 (24 percent) of the claimants withdrew their requests for a hearing.

For example, a claimant from Alabama with a primary diagnosis of essential hypertension applied for both DI and SSI in December 2012. In May 2013, the claimant received an initial denial determination at Step 4 of SSA's sequential evaluation process because of her ability to perform past relevant work. The claimant appealed the denial by filing a request for hearing; however, an administrative law judge dismissed the request for hearing in September 2014 because the claimant did not appear for her hearing. After CY 2013, the claimant had earnings indicating potential SGA, meaning a possible return to work.

Claimants Who Did Not Appeal or Re-apply After the CY 2013 Denial

As of November 2016, 61 claimants did not appeal or file new claims after their denial decisions. For example, a claimant from Michigan who had a primary diagnosis of affective disorder applied for both DI and SSI disability payments in November 2012. In February 2013, the claimant received an initial denial determination at Step 5 of SSA's sequential evaluation process because of his ability to perform other work, and, as of November 2016, he had not filed a new claim. Additionally, the claimant had earnings after the CY 2013 denial of \$23,388 and \$24,079 for CYs 2014 and 2015, respectively, which indicated a possible return to work.

CONCLUSIONS

We identified 1.1 million claimants denied DI or SSI disability payments in CY 2013 at the initial claims decision level because of the claimants' ability to work. The claimants' average annual earnings before the initial disability denial was \$12,160. Additionally, 445,696 claimants had earnings after their disability denial, with an average annual earnings of \$3,814.

Based on our sample, we estimate about 852,400 claimants either appealed or re-applied after their denial at the initial level in CY 2013. Of these, we estimated about 406,300 were approved for disability payments and about 346,500 individuals were receiving approximately \$4.4 billion per year as of November 2016. Most individuals in our sample had claims approved after reapplying or on appeal because of new impairments or their original impairments had worsened. Additionally, we estimate about 191,200 individuals had earnings indicating potential SGA after they were denied because of their ability to work.

AGENCY COMMENTS

For SSA's comments, see Appendix E.

A handwritten signature in black ink that reads "Rona Lawson". The signature is fluid and cursive, with the first name "Rona" and last name "Lawson" clearly distinguishable.

Rona Lawson
Assistant Inspector General for Audit

APPENDICES

Appendix A – THE SOCIAL SECURITY ADMINISTRATION’S PROCESS FOR EVALUATING DISABILITY

The Social Security Administration (SSA) has a 5-Step sequential process for evaluating disability for adults that generally follows the definition of disability in the *Social Security Act* and regulations (Figure A–1).¹ An individual is considered disabled under SSA’s regulations if he/she cannot engage in substantial gainful activity² because of a medically determinable physical or mental impairment that can be expected to result in death or has lasted, or can be expected to last, for a continuous period of not less than 12 months.³

At Step 1, SSA considers whether the claimant is still performing substantial gainful activity. If the claimant is not performing substantial gainful activity, the claim is sent for a medical determination of disability. When the claim is initially developed, the adjudicator concurrently requests all the evidence needed for consideration at Steps 2 through 5 of the sequential evaluation process.⁴

At Step 2, SSA determines whether the claimant has a medically determinable impairment and whether such medically determinable impairment is severe.⁵ If a claimant has a medically determinable severe impairment, the Agency proceeds to Step 3 of the sequential evaluation process and considers the Listings of Impairments. If the severity of the impairment meets or medically equals a specific Listing, the individual is found disabled.

If the individual’s impairment does not meet or medically equal a listing, the Agency looks to Steps 4 and 5. At Step 4, the Agency determines whether the claimant can perform past relevant

¹ SSA uses a different standard to evaluate disability for Supplemental Security Income claimants under age 18. 20 C.F.R. § 416.924.

² 20 C.F.R. §§ 404.1572 and 416.972. Substantial gainful activity is the performance of significant physical and/or mental activities in work for pay or profit or in work of a type generally performed for pay or profit. As of 2017, “countable earnings” of employees indicate substantial gainful activity and “countable income” of the self-employed is “substantial” if the amount averages more than \$1,170 per month for non-blind individuals or \$1,950 for blind individuals. SSA, POMS, DI 10501.015 (October 19, 2016).

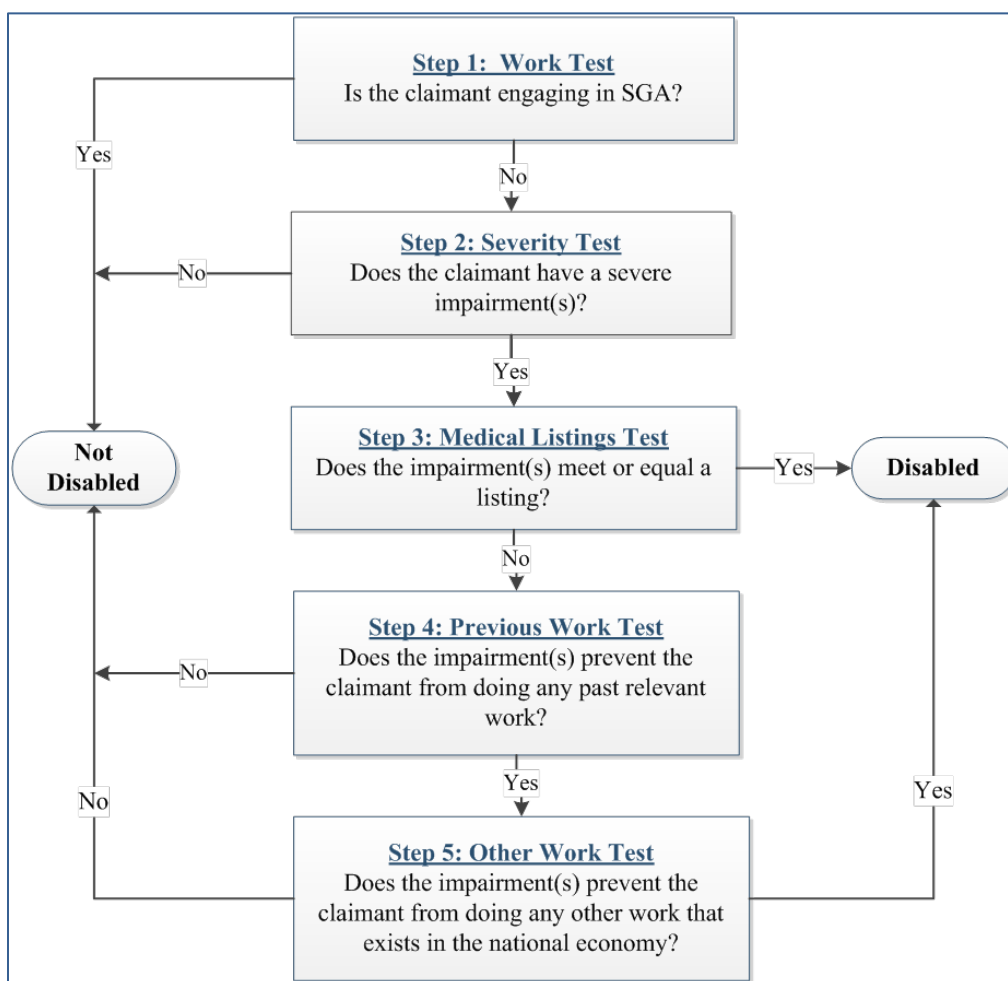
³ *Social Security Act* § 223(d)(1)(A), 42 U.S.C. § 423(d)(1)(A), and § 1614(a)(3)(A), 42 U.S.C. § 1382c(a)(3)(A), 20 C.F.R. §§ 404.1520 and 416.920.

⁴ If the claimant disagrees with the Agency’s initial disability determination, he/she can appeal within 60 days of the date of notice of the determination. In most cases, there are four levels of review, including (1) reconsideration by the disability determination services, (2) hearing by an administrative law judge, (3) review by the Appeals Council, and (4) review by the Federal Courts. 20 C.F.R. §§ 404.900(a) and 416.1400(a), SSA, POMS, DI 12005.000 (February 27, 2003), DI 12010.000 (December 12, 2002), DI 12020.000 (September 20, 2011), and SI 04005.010 (September 9, 2011).

⁵ 20 C.F.R. §§ 404.1521 and 416.921. An impairment or combination of impairments is not severe if it does not significantly limit an individual’s physical or mental ability to do basic work activities.

work, considering his/her residual functional capacity⁶ and the physical and mental demands of the work he/she did. If the claimant can perform past relevant work, the claim is denied. If the claimant cannot perform past relevant work, at Step 5, the Agency determines whether the claimant can perform any other work, considering his/her residual functional capacity, age, education, and past work experience. If the claimant cannot perform any other work, SSA finds him/her disabled.⁷

Figure A–1: SSA’s 5-Step Sequential Evaluation for Determining Disability for Adults



⁶ 20 C.F.R. §§ 404.1545(a)(1) and 416.945(a)(1). An individual’s impairment(s), and any related symptoms, such as pain, may cause physical and mental limitations that affect what he/she can do in a work setting. The residual functional capacity is the most the individual can still do despite these limitations. SSA assesses the residual functional capacity based on all relevant evidence in the case record.

⁷ SSA has another sequential process for evaluating whether a disabled beneficiary’s disability continues, which includes a step for considering the Listings. 20 C.F.R. §§ 404.1594(f) and 416.994(b)(5).

Appendix B – CONGRESSIONAL REQUEST

MICHAEL B. ENZI, WYOMING, CHAIRMAN
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COMMITTEE ON THE BUDGET

WASHINGTON, DC 20510-6100

TELEPHONE: (202) 224-0642 FAX: (202) 224-4835

November 7, 2016

Gale S. Stone
Acting Inspector General
Social Security Administration
6401 Security Boulevard
Altmeyer Building, Suite 300
Baltimore, MD 21235

Dear Ms. Stone:

I'm interested in gathering information on claimants who are denied benefits because of their ability to work. Specifically, I would like to request a review of claimants who recently applied for Disability Insurance (DI) benefits or Supplemental Security Income (SSI) disability payments and whose claim was denied by the Social Security Administration because the Agency determined the claimants had the ability to work.

Please tell me how many claimants are denied DI and SSI payments because of the ability to work; and provide the following information about this group:

- Age,
- Gender,
- Body System and Primary Diagnosis,
- Type of Claim (DI, SSI, Concurrent)
- Average earnings for 10 years prior to the initial disability denial,
- Average earnings for 2 years after to the initial disability denial,
- Denial at either step 4 or 5 of Sequential Evaluation Process, and
- Industry Code(s) from W-2 (i.e. job prior to denial and job after denial, if different).

Additionally, I would like to know the following information based on a representative sample of the larger group:

- How many appealed the initial disability denial or filed new applications?
- How many were subsequently allowed after the initial disability denial (and at what level were they allowed)?
- How many had substantial earnings after the initial disability denial?
- How many had other reasons for not receiving disability benefits (such as deceased or in prison)?
- Was denial at Step 4 due to part-time work (Yes or No)?

Should you or your staff have any questions concerning this request, please contact Steve Robinson at 202-224-6011.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, reading "Michael B. Enzi". The signature is written in a cursive, slightly stylized font.

Michael B. Enzi
Chairman
Committee on the Budget
United States Senate

Appendix C – SCOPE, METHODOLOGY, AND SAMPLE RESULTS

To accomplish our objective, we:

- Reviewed applicable sections of the *Social Security Act* and the Social Security Administration’s (SSA) rules, policies, and procedures.
- Reviewed prior Office of the Inspector General reports.
- Identified a population of 1,095,345 claimants—from SSA’s 831-disability file—who were denied Disability Insurance (DI) or Supplemental Security Income (SSI) in Calendar Year (CY) 2013 at the initial decision level because of the claimants’ ability to work.
- Obtained earnings data—from SSA’s Master Earnings File—for the 1,095,345 claimants identified in our population, which included earnings for CYs 2003 through 2015.
- Determined the following characteristics for the claimants identified in our population.
 - ✓ Age of the claimants when they were initially denied DI or SSI because of their ability to work, as well as the claimants’ gender.
 - ✓ Body system affected by the primary impairments on the claimants’ DI and/or SSI applications, along with primary diagnosis codes.
 - ✓ Average annual earnings before the CY 2013 initial disability denial.¹
 - ✓ Average annual earnings after the CY 2013 initial disability denial.²
 - ✓ Type of wages the claimants earned.
 - ✓ Whether the denial occurred at Step 4 (ability to perform past relevant work) or 5 (ability to perform other work that exists in the national economy) of SSA’s 5-Step sequential evaluation process.
- Randomly selected and reviewed a sample of 275 cases from our population and determined the following.

¹ To determine the average annual earnings, we calculated a 10-year average from CYs 2003 through 2012 for the population we identified, which included 118,934 claimants who did not have any earnings over the 10-year period. Additionally, some claimants may not have worked all 10 years.

² To determine the average annual earnings, we calculated a 2-year average from CYs 2014 and 2015 for the population we identified, which included 649,649 claimants who did not have any earnings for the 2-year period. Additionally, some claimants may not have worked both years.

- ✓ Number of claimants who appealed or filed a new claim after the CY 2013 disability denial.
- ✓ Number of claimants subsequently allowed DI or SSI after the CY 2013 disability denial, and the decision level (initial, reconsideration, hearing, or Appeals Council) at which the allowance was made.
- ✓ Number of claimants who had earnings indicating potential substantial gainful activity (SGA) after the CY 2013 disability denial.³
- ✓ Number of claimants who were receiving DI or SSI disability payments as of November 2016.
- ✓ Reasons the claimants were not receiving DI or SSI disability payments as of November 2016 (for example, earnings, deceased, prison, or other).
- ✓ Number of claimants who indicated part-time work on their disability application.
- Estimated the following characteristics of our population based on the sample results.
 - ✓ Number of claimants who appealed or filed a new claim after the initial denial.
 - ✓ Number of claimants subsequently allowed disability on appeal or a new claim.
 - ✓ Number of claimants with earnings indicating potential SGA after the CY 2013 disability denial.
 - ✓ Number of claimants who were receiving DI and/or SSI payments as of November 2016.
 - ✓ Dollars claimants received annually for DI and/or SSI payments as of November 2016.

We began our initial analysis in July 2016 based on informal questions from staff at the Senate Committee on the Budget and updated our results as of November 2016 after we received the Committee's formal request. The entity reviewed was the Office of the Deputy Commissioner for Operations. We conducted this performance audit 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 findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis

³ 20 C.F.R. §§ 404.1572 and 416.972. SGA means the performance of significant physical and/or mental activities in work for pay or profit or in work of a type generally performed for pay or profit, even if done part-time. For non-blind individuals, countable earnings indicate substantial gainful activity and countable income of the self-employed is substantial if the monthly amount averages more than \$1,170 for CY 2017, \$1,130 for CY 2016, \$1,090 for CY 2015, and \$1,070 for CY 2014. For blind individuals, countable earnings indicate SGA and countable income of the self-employed is substantial if the amount averages more than \$1,950 per month for CY 2017, \$1,820 per month for CYs 2016 and 2015, and \$1,800 per month for CY 2014. SSA, POMS, DI 10501.015 (October 19, 2016).

for our findings and conclusions based on our audit objectives. We tested the data obtained for our review and identified 11 claimants whose dates of birth in the 831-disability file did not agree with SSA's Numident records.⁴ We manually adjusted the dates of birth for these 11 claimants in our population file so it would contain the correct dates for these cases for our analysis of the claimants' ages. We also identified nine claimants in the our file who had an incorrect type of claim code, as the claim code in the file was for SSI disability but should have been for aged noncitizen SSI payments. We manually adjusted the type of claim code for these claims in our file so it would contain the correct code for these claimants. Despite these issues, we determined the data to be sufficiently reliable to meet our objective.

Sample Results

Population and Sample Size

- Population: 1,095,345
- Sample Size: 275

Table C–1: Estimated Claimants Who Appealed or Filed a New Claim

	Number of Claimants
Sample Results	214
Point Estimate	852,378
Projection Lower Limit	802,895
Projection Upper Limit	896,885

Note: Projections were calculated at the 90-percent confidence level.

Table C–2: Estimated Claimants Subsequently Allowed on Appeal or New Claim

	Number of Claimants
Sample Results	102
Point Estimate	406,273
Projection Lower Limit	353,139
Projection Upper Limit	461,700

Note: Projections were calculated at the 90-percent confidence level.

⁴ To determine whether dates of birth were accurate, we reviewed SSA's Numident records for 3,640 claimants whose dates of birth in the 831-disability file made the claimant's age 65 or older when denied in CY 2013. SSA's Numident file contains personally identifiable information on individuals assigned a Social Security number. SSA, POMS, GN 03325.025 (April 2, 2014).

Table C–3: Estimated Claimants Who Had Earnings Indicating Potential SGA

	Number of Claimants
Sample Results	48
Point Estimate	191,187
Projection Lower Limit	150,984
Projection Upper Limit	237,240

Note: Projections were calculated at the 90-percent confidence level.

Table C–4: Estimated Claimants Receiving DI and/or SSI Disability Payments

	Number of Claimants	Dollars
Sample Results	87	\$1,104,376
Point Estimate	346,527	\$4,398,811,679
Projection Lower Limit	295,820	\$3,679,677,437
Projection Upper Limit	400,501	\$5,117,945,921

Note: Projections were calculated at the 90-percent confidence level.

Table C–5: Estimated Claimants Receiving DI Benefits

	Number of Claimants	Dollars
Sample Results ⁵	67	\$927,061
Point Estimate	266,866	\$3,692,552,182
Projection Lower Limit	220,671	\$2,984,138,057
Projection Upper Limit	317,638	\$4,400,966,308

Note: Projections were calculated at the 90-percent confidence level.

⁵ Seven claimants were concurrent beneficiaries; therefore, they were receiving both DI and SSI disability payments and thus they are included in both our DI and SSI estimates.

Table C–6: Estimated Claimants Receiving SSI Disability Payments

	Number of Claimants	Dollars
Sample Results ⁶	27	\$177,315
Point Estimate	107,543	\$706,259,497
Projection Lower Limit	76,906	\$464,106,340
Projection Upper Limit	145,510	\$948,412,653

Note: Projections were calculated at the 90-percent confidence level.

⁶ Seven claimants were concurrent beneficiaries; therefore, they were receiving both DI and SSI disability payments and thus they are included in both our DI and SSI estimates.

Appendix D– CLAIMANTS BY STATE

Table D–1 shows claimants by state who were denied disability benefits in Calendar Year 2013 because of their ability to work.¹

Table D–1: Claimants by Office Location

State	Number of Claimants	State	Number of Claimants
Alabama	26,530	Montana	2,845
Alaska	1,560	Nebraska	4,360
Arizona	14,746	Nevada	7,082
Arkansas	15,319	New Hampshire	2,623
California	108,146	New Jersey	21,201
Colorado	12,300	New Mexico	7,428
Connecticut	9,029	New York	60,920
Delaware	3,817	North Carolina	46,259
District of Columbia	2,370	North Dakota	1,190
Florida	76,890	Ohio	51,016
Georgia	41,967	Oklahoma	15,562
Hawaii	3,258	Oregon	12,965
Idaho	4,827	Pennsylvania	51,691
Illinois	37,140	Rhode Island	4,034
Indiana	26,364	South Carolina	22,925
Iowa	8,088	South Dakota	1,589
Kansas	7,911	Tennessee	30,693
Kentucky	26,848	Texas	72,921
Louisiana	15,703	Utah	5,556
Maine	5,666	Vermont	1,849
Maryland	18,382	Virginia	19,225
Massachusetts	15,898	Washington	21,030
Michigan	49,774	West Virginia	11,763
Minnesota	15,567	Wisconsin	19,541
Mississippi	15,562	Wyoming	1,277
Missouri	24,932	Outside the United States	9,206
		TOTAL	1,095,345

¹ The location is based on the coding in the Social Security Administration's 831-disability file.

Appendix E – AGENCY COMMENTS



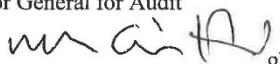
SOCIAL SECURITY

MEMORANDUM

Date: February 23, 2017

Refer To: S1J-3

To: Rona Lawson
Assistant Inspector General for Audit

From: Stephanie Hall  obo
Acting Deputy Chief of Staff

Subject: Office of the Inspector General Draft Congressional Response Report, "Disability Applications Denied Because of Claimants' Ability to Work" (A-01-17-50222)--INFORMATION

Thank you for the opportunity to review the draft report. We offer the following comments. The report suggests that a high number of claimants are found disabled on appeal or re-application (after an initial denial) but does not provide adequate context. Several of the cases cited in the report demonstrate, and our experience confirms, that claimants allowed after an initial denial often suffer a worsening of their stated impairments or present medical evidence of additional impairments. In addition, claimants allowed on appeal or re-application are sometimes granted disability with a later onset date because of additional or worsening impairments. We suggest adding language to the report and the "Conclusion" section to provide this context.

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

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