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January 7, 2014

Mr. Patrick O'Carroll
Inspector General
Social Security Administration
6401 Security Boulevard, Suite 300
Baltimore, MD 21235

Dear Mr. O'Carroll:

The Committee on Oversight and Government Reform is continuing its oversight of the Social Security Administration's management of federal disability programs. Various reviews, hearings, and investigations continue to highlight the wide variance in administrative law judge outcomes at the Social Security Administration. SSA's published ALJ productivity figures demonstrate that reversal rates for some ALJs continued to exceed 85 percent in Fiscal Year 2013, which is far above the national average.¹

We are concerned that these high reversal rates, combined with a high number of dispositions, may indicate a lack of adherence to SSA's policies and procedures. During a transcribed interview with Committee staff on October 22, 2013, Regional Chief Administrative Law Judge Jasper Bede testified that when ALJs have a high reversal rate,² which he defined as over "75 or 80 percent," or dispose of more than 700 cases a year, "it raises a red flag" about the quality of the decisions.³ According to an analysis of the data, the Committee has calculated that between FY2005 and FY2012, 930,250 individuals were awarded federal disability benefits by ALJs who had annual reversal rates in excess of 80 percent. Additionally, during this time period, over 350,000 individuals were awarded benefits by ALJs with annual reversal rates in excess of 90 percent.

To assist with our oversight of the appeals process at SSA, we request that you review ALJ productivity trends that result in an unusually high level of reversed cases. Specifically, we

¹ Publicly available ALJ adjudication data as well as ALJ adjudication data provided by the Social Security Administration.

² Reversal is defined as when an ALJ overturns the decision of state DDS who have denied benefits at least once and often twice to a claimant before the case reaches the ALJ. Others often use "approval" or "award" to describe an ALJ overturning the DDS decision.

³ Defined by Mr. Bede as "certainly anything over ... 75 or 80 percent. Several years ago, that might have been [defined as] 85 percent, when everyone, as a whole, nationally and regionally, were reversing cases in the 65 percent range."

Mr. Patrick P. O'Carroll, Jr.

January 7, 2014

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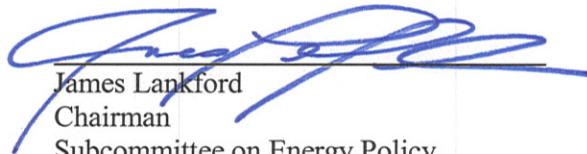
would like you to identify ALJs who had reversal rates of 85 percent or more and issued 700 or more dispositions in any two fiscal years since 2007. Once you have identified these ALJs, we would like you to review a statistically significant, random sample of these reversed cases to assess whether the cases were processed in a manner consistent with SSA's policies and procedures. Such a review should entail examination of the evidence submitted prior to the hearing, the hearing itself as well as parties in attendance, and any other factors that assist in determining whether the ALJ's decision to reverse the previous State Disability Determination Service denial was accurate according to SSA guidelines and criteria for reversing a denial.⁴ We are also interested in the level of SSA monitoring of this ALJ outlier group, including subsequent actions taken with outlier ALJs based upon this monitoring.

We request that you produce a report to the Committee by August 1, 2014, with your findings related to this request. Please keep Committee staff apprised of your progress in conducting this report and contact Brian Blase or Sharon Utz of the Committee staff at (202) 225-5074 with matters concerning this study. Your assistance in this matter is greatly appreciated.

Sincerely,



Darrell Issa
Chairman



James Lankford
Chairman
Subcommittee on Energy Policy,
Health Care and Entitlements

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Jackie Speier, Ranking Minority Member
Subcommittee on Energy Policy, Health Care Policy and Entitlements

⁴ According to Social Security policy, "ALJs must consider the entire case record, including the objective medical evidence, the individual's own statement of symptoms, statements and other information provided by the treating or examining physicians or psychologists and other persons about the symptoms and how they affect the individual, and any other relevant evidence in the case record." Policy Interpretation Ruling Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements, SSR 96-7p (July 2, 1996).