

Notes and Brief Reports

Appeals Under Old-Age and Survivors Insurance

In December 1939, as benefit claims were beginning to be filed, the Social Security Board adopted a set of basic provisions to underlie a system for the hearing and review of claims involving adjudications that had been unfavorable to claimants. To implement this system the Board established an Office of Appeals Council, wholly independent of the Bureau of Old-Age and Survivors Insurance. The personnel of the Office consisted principally of one referee in and for each of the 12 regions set up by the Board, to hold hearings and render decisions on claimants' requests, and a council of three members, sitting in Washington, to review referee's decisions either upon petitions of claimants or upon its own motion.

When the Social Security Board was abolished by Executive order in July 1946 and its powers were transferred to the Federal Security Administrator, the Administrator delegated to the Office of Appeals Council his authority to render final decisions on claims arising under the old-age and survivors insurance program. Although the number of referees and administrative personnel has increased slightly in the past few years, the structure and functions of the Appeals Council have remained substantially as originally instituted.

The statutory right of claimants to hearings was created by section 205 of the Social Security Act as amended in 1939. More than 3 years before enactment of this requirement, however, the Board had begun work on procedures intended to guarantee a fair hearing to every person whose claim was disallowed, and nearly a year earlier a special staff within the Bureau, directed by a consultant in administrative law, had conducted a comparative study of appeals procedures of other Federal and State agencies and of certain foreign insurance systems to furnish suggestive data to guide the drafting of the Board's final plan.

In stressing the right to a hearing, as well as the administrative impor-

tance of prompt and thorough consideration of a claimant's contentions, emphasis has been laid upon making hearings genuinely available and practically serviceable to all claimants who want them. Whenever possible, hearings have been held in the claimant's home community and rarely at a place more than 50 miles distant. As far as compatible with the referee's traveling schedule, claimants' preferences as to the time for holding hearings have been complied with. Procedural requirements have been kept simple. Though hearings are "formal" in the sense that witnesses are sworn and a stenographic record of testimony is taken, strict rules of evidence are not required. The Bureau is not represented at the hearing, though Bureau employees occasionally testify as witnesses. It is the referee's function to bring forward all material evidence, whether for or against the claimant's contentions. Claimants may be represented by lay friends or by attorneys. Fees of attorneys, above a \$10 minimum fixed by regulation, must be approved by the referee. During the past year attorneys have represented claimants in about 25 percent of the cases.

From establishment of the Office of Appeals Council in 1940 to July 1, 1951, requests for hearings were filed by 16,082 claimants and final decisions of referees or of the Appeals Council were rendered in 15,504 cases. Judged only quantitatively, the hearing and review system may not appear important, since hearings are requested in only one-fifth of 1 percent of all claims filed, and the Bureau's determinations are affirmed in about three-fourths of these cases. On the other hand, many of the instances in which the Bureau has been reversed have been cases in which substantial justice was achieved because unusual factual situations were revealed only through the hearing. In addition, the decisions based on hearings have in some instances resulted in a modification of the regulations or policies governing the processing of claims under title II.

If a claimant is not satisfied with the Agency's final decision (the referee's decision if it is not reviewed by

the Appeals Council, otherwise the decision of the Council) he may seek judicial review by filing a civil action in a United States district court. By the close of the fiscal year 1951, 128 cases had been appealed to the courts. In 98 of these cases final court decisions had been rendered, while 30 suits were still pending—28 in the district courts and 2 in the courts of appeal.

Liberalized Eligibility Provisions and Old-Age Benefits, January-June 1951

The 1950 amendments to the Social Security Act provide, until the middle of 1954, fully insured status under the old-age and survivors insurance program for any individual living on September 1, 1950, who has as many as 6 quarters of coverage. The effect of this liberalization on old-age benefits in the period September-November 1950 was discussed briefly in the May 1951 issue of the BULLETIN (pages 21-22); data for January-June 1951 are reported here.

Benefits Awarded

During the first 6 months of 1951, old-age benefits were awarded to 435,600 persons, slightly more than three-fourths the total number to whom awards were made in 1950. Almost half these persons were new eligibles, persons who qualified for old-age benefits as a result of the liberalized insured-status provisions. Women made up somewhat larger proportions of the total than in 1950; they represented one-third of the new eligibles in January-June 1951 and almost one-fifth of the group eligible under the 1939 provisions.

With respect to 1939 eligibles, the smaller proportion of awards to persons aged 65-69 (56 percent compared with 65 percent in 1950) was largely due to the higher proportion of awards to persons in the group aged 75 and over—25 percent compared with 16 percent in 1950 (table 1). This increase in the older group resulted chiefly from the new provision permitting beneficiaries aged 75 or over to receive monthly benefits even though they are earning more than \$50 a