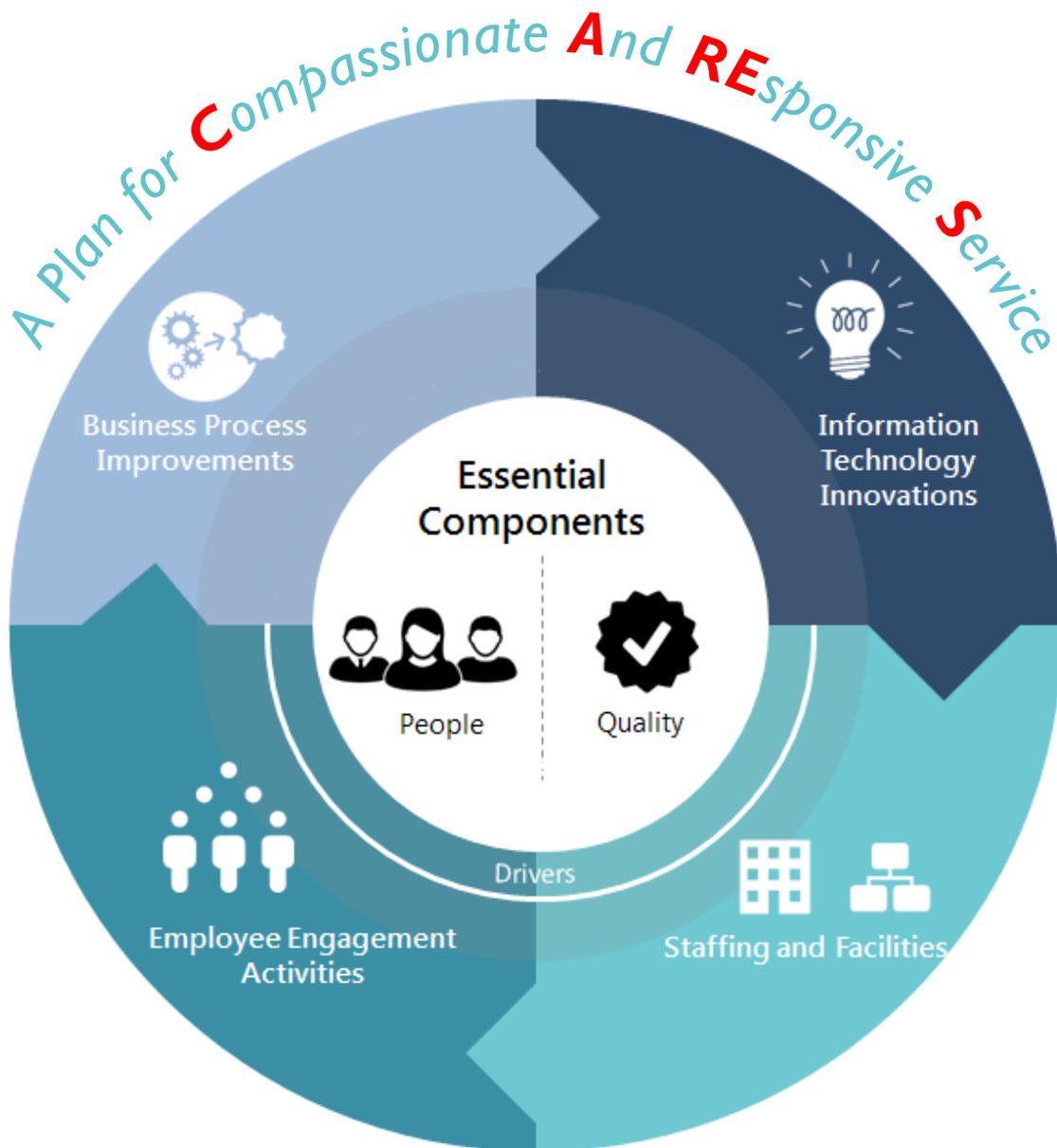


# Leading the Hearings and Appeals Process into the Future



# Leading the Hearings and Appeals Process into the Future: A Plan for **C**ompassionate **A**nd **RE**sponsive **S**ervice (CARES)

## Executive Summary

The Social Security Administration (SSA) is facing a significant public service crisis in our hearings and appeals process. At present, and for the first time in our history, more than one million people are waiting for a hearing decision. The situation is urgent. Our ability to decrease the number of hearings pending, reduce the average wait time for a hearing, and significantly improve our service to these claimants requires adequate and sustained funding. In addition to the necessary funding, we are committed to continue to use data analysis, to listen to our employees and partners, and most importantly, to remain dedicated to providing a high quality, modern and timely disability appeals process now and into the future.

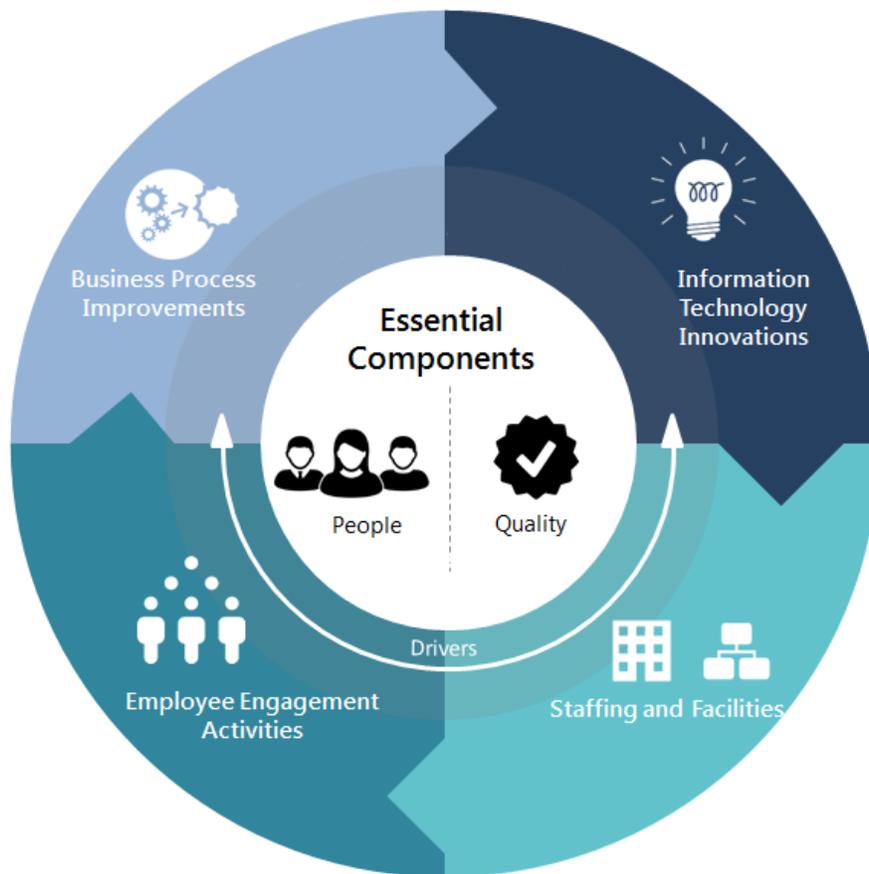
These challenges require both immediate tactical initiatives to address the over one million cases pending a hearing, and initiatives to ensure the hearings and appeals process is efficient, effective, and sustainable. The CARES plan outlines our current comprehensive and multi-layered approach to deal with the immediate crisis of the growing number of hearings pending and increasing wait times. It will also help to serve as a foundation to explore potential future initiatives, as we continue our efforts to identify ways in which we can better serve our customers.

We have built our plan on two essential components: **people and quality**—engaged, well-trained people providing quality service. We have also identified several broad categories of drivers that will help our employees provide quality service to the people who need us most. These drivers include:

- ▶ [Business Process Improvements](#);
- ▶ [Information Technology Innovations](#);
- ▶ [Staffing and Facilities](#); and
- ▶ [Employee Engagement Activities](#).

We are pursuing a number of innovations, new or enhanced practices, and quality initiatives to address our critical priority. We believe that we can combine our current plans with potential future initiatives to transform our hearings and appeals process, so we are well positioned to better serve the American public for years to come.

We have outlined a myriad of tactically important steps we can take, right now, to address our service crisis. However, we need adequate and sustained funding to execute the CARES plan. We also commit to an ongoing search for the ways in which we can serve our customers better. We will continue to use data analysis to inform, listen to our employees and partners, and most importantly, remain vigilant in our goal to serve. In our pursuit to meet the needs of the more than one million people waiting, we must consider every constructive avenue for change.



### A History of Hearing Pending Levels and Wait Times

Our disability programs are complex, resource-intensive, and require robust administration. Disability claims and appeals require our employees to understand our rules and regulations, analyze the merits of each case, and make difficult decisions. While we automate where we can, the disability programs we administer require a sufficient number of well-trained, engaged employees to assist the American public with their disability appeals.

Over the history of our disability programs, there have been many initiatives to reform or improve the hearings and appeals process. However, despite any streamlining we have achieved, we have been continuously affected by external influences that slowed our hearings process. These external influences have been instrumental in increasing the number of hearings pending as well as a rise in wait times for our customers.

Administrative Law Judges (ALJs) are our primary decision makers in the hearings process. From 1999 through 2008, the Office of Personnel Management’s (OPM) ALJ registry was not updated because of an adverse ruling in litigation commonly referred to as the Azdell litigation. However, due to severe staffing shortfalls in the early 2000s, SSA received temporary authority to hire an additional 126 ALJs from the old register. While we hired this limited number of judges, it unfortunately did not keep pace with the growing number of pending cases and the attrition of approximately 100 ALJs each year, who leave primarily to retirement. The inability to hire ALJs, the number of retiring ALJs, and several years of insufficient funding caused pending levels and wait times to rise dramatically. As we

look at resolving the current crisis of over one million Americans waiting for their hearing, it is imperative that we not only replace ALJ attrition losses, but also increase the number of ALJs to reduce the number of hearings pending.

In 2007, our pending level rose to 750,000 hearings, nearly triple the number pending in 2000. The average processing time almost doubled to 500 days between 2000 and 2007. As a result, we developed an aggressive plan to reduce the growing hearings backlog by 2013. At the same time, the economy entered a recession, which contributed to a significant increase in disability applications. This increase in applications exacerbated the number of hearings pending and wait times. We worked diligently to address the growing backlog by shifting funding from our other priorities to the hearings and appeals workloads and successfully implementing many important initiatives to improve service, including:

- Completing implementation of the electronic folder eliminating our paper-intensive disability process;
- Hiring additional ALJs;
- Expanding our national video-conferencing network, allowing us to hold more hearings via video;
- Establishing National Hearing Centers, which use video technology to hold hearings to assist backlogged offices;
- Opening National Case Assistance Centers to help offices prepare cases and write hearing decisions;
- Creating a national standardized electronic business process;
- Adopting the aged case initiative and enforcing the first-in/first-out approach to reduce the number of aged cases; and
- Providing program training to ALJs and other hearing office staff through easily accessible computer systems on a large range of topics.

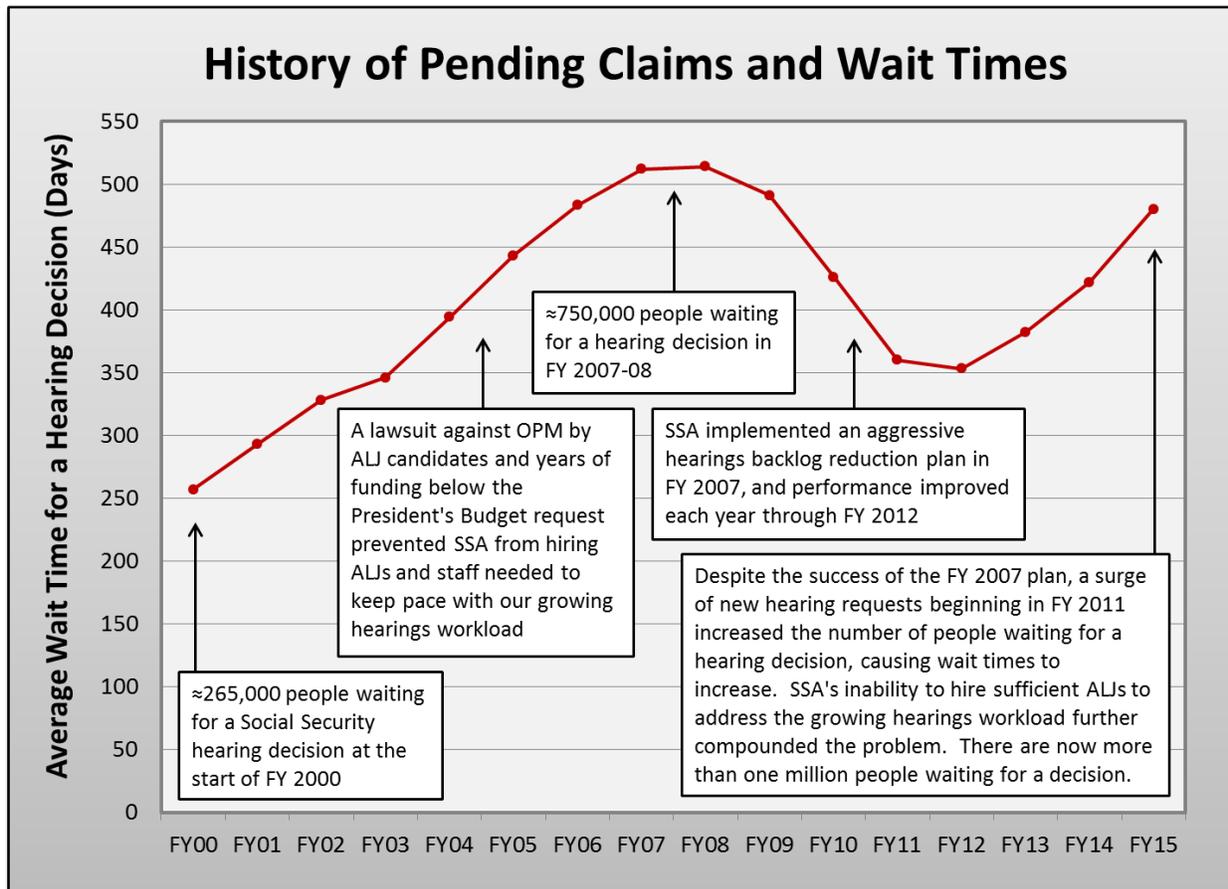
Although we made measurable progress through 2011 toward eliminating the hearings backlog, severe budget cuts adversely affected our progress. Decreased budget allocations drove our difficult decision to curtail plans to open additional new hearing offices that would have increased adjudicatory capacity. We also continued to face difficulty in hiring a sufficient number of qualified ALJs. As a result, wait times for a disability hearing and the number of pending hearings began to rise again. Now, we are mindful of these lessons learned and the ongoing impact of changes in our operational landscape.

### **Defining the Numbers: Cases Pending and Wait Times**

Although the terms ‘pending’ and ‘backlog’ have often been used interchangeably to describe our appeals crisis, they are not the same. We can express the ‘backlog’ as a mathematical equation. The backlog, which constitutes only a part of the total pending, is the extent to which the number of pending cases prevents us from meeting our timeliness expectations. We define the hearings backlog as the number of pending cases that push the average wait time over 270 days. Currently, we have over one million people awaiting a hearing, which is about twice as many as our business process and staffing levels allow us to handle.

We base our 270-day timeframe on our statutory and regulatory timeframes for our hearings process, and the amount of time necessary for our employees to complete each stage of the process. We believe

that we will be successful in providing timely, quality hearing decisions and we will consider that we have been successful with our plan once we have met our average national processing time of 270 days.



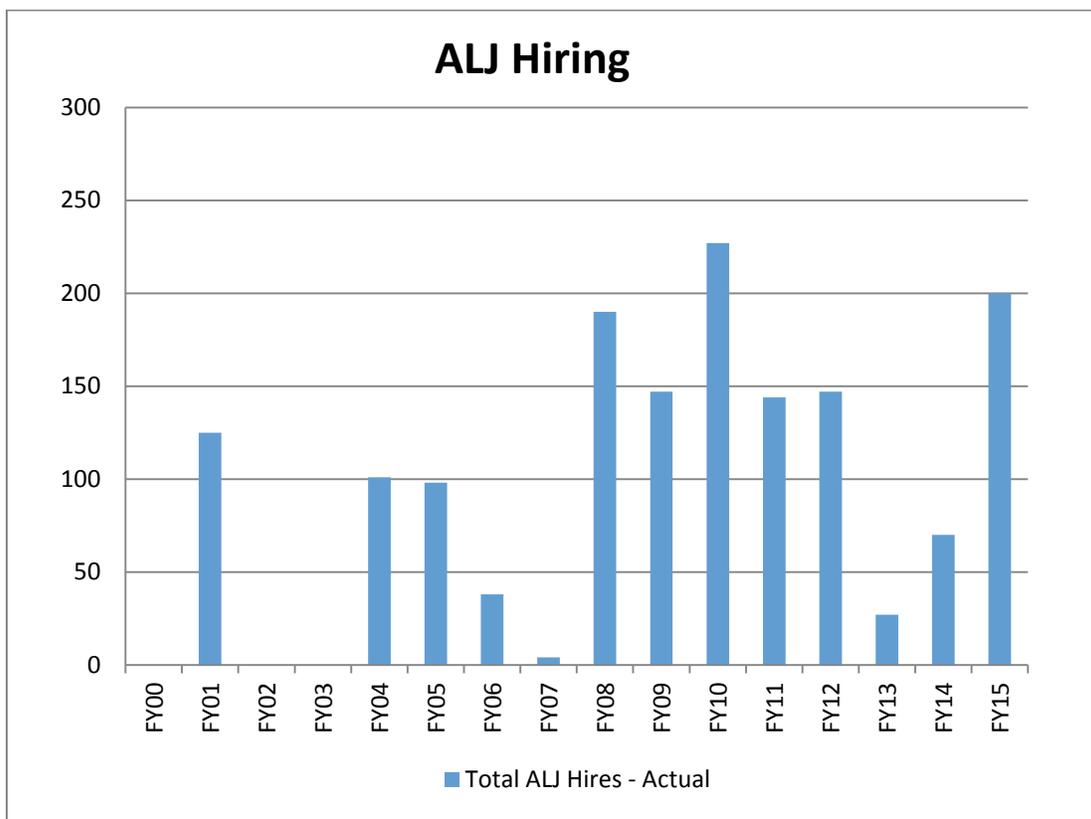
In the past, we provided the number of pending cases to inform decision makers and the public as to how efficiently the program was working. However, this measure is not necessarily meaningful to our claimants who are likely more concerned about how long they will wait for a hearing than how many people are waiting. Using average wait time, also referred to as processing time, is a better, meaningful service metric that will help us more readily define success by providing a tangible measure for our customers. A similar analogy to this expectation is individuals waiting in line at a store with building checkout lines. People begin to get upset if there are not enough cashiers on the registers. The real concern is not how many other people are waiting but how quickly the line is moving and how long it will take to be served.

## Definition of Success

When the national average waiting time for a hearing decision is 270 days, we will consider the portion of our pending hearings that are considered a ‘backlog’ eliminated. We plan to achieve this goal by the end of fiscal year (FY) 2020, but the success of this plan will require adequate and sustained funding as well as OPM’s ability to provide enough qualified ALJs timely.

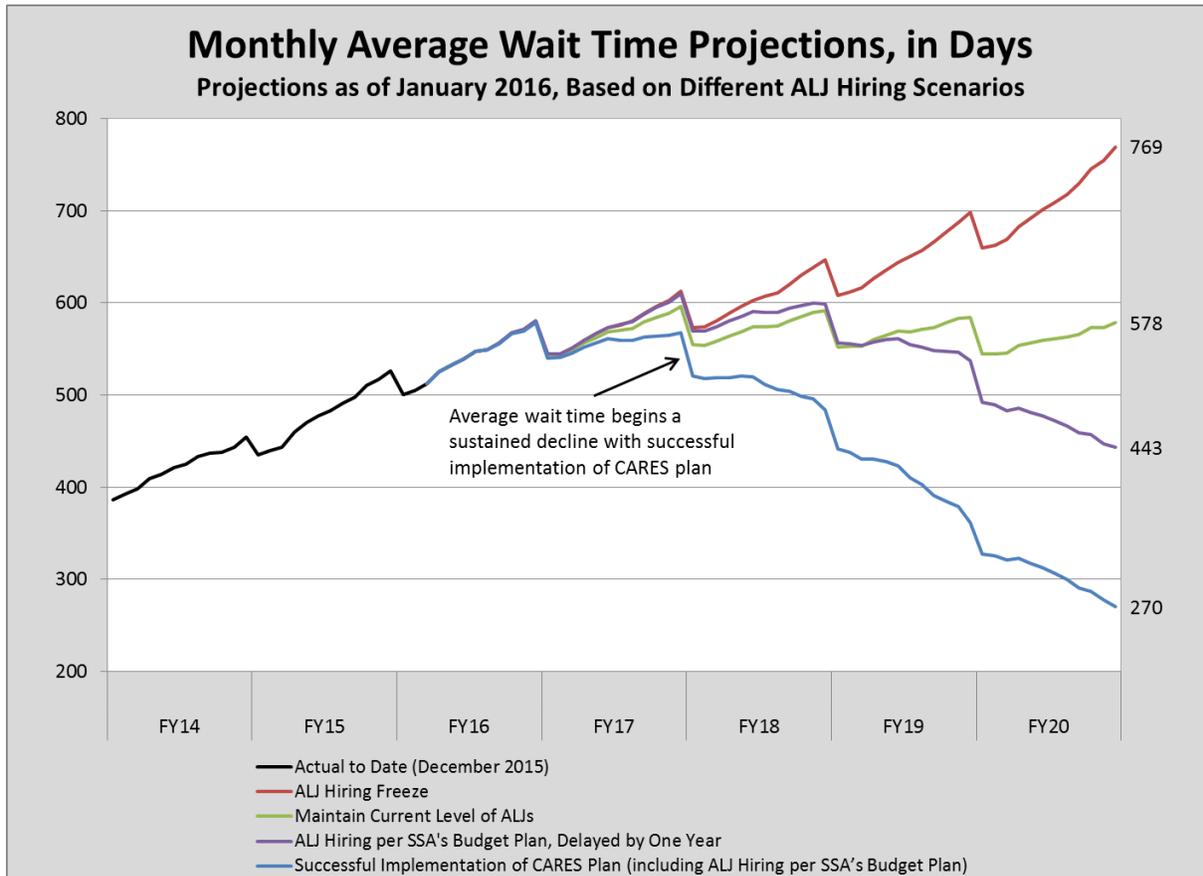
Our plan requires sustained, adequate funding in the future to expand the number of ALJs and increase the number of hearings we complete. In order to meet our hiring goals, we are working in close collaboration with OPM to provide a larger and continuously refreshed register of qualified ALJ candidates. We also need an immediate re-announcement of the ALJ examination. If we meet our hiring goals, we will increase our hearing decisions in FY 2017 to approximately 784,100, nearly 18 percent more than our FY 2015 levels. If we are successful with these hiring plans, we believe that by FY 2018, our ALJ corps will be at the appropriate levels to address the continued growth in pending hearings and wait times for a hearing.

Our projections show that we will need to hire at least 250 new ALJs in FY 2016, FY 2017 and FY 2018 to reach an average wait time of 270 days by FY 2020. This need to hire ALJs also requires hiring support staff for each ALJ. Currently, we have approximately 4.5 support staff for every ALJ. We have been committed to increasing the number of qualified ALJs for the past several years, but with limited and sporadic success, as illustrated in the chart below.



We believe the Bipartisan Budget Act of 2015 will help to address certain delays we have experienced when seeking a new register of ALJ candidates, but we will continue to review and study additional ways to augment our capacity and our efficiency.

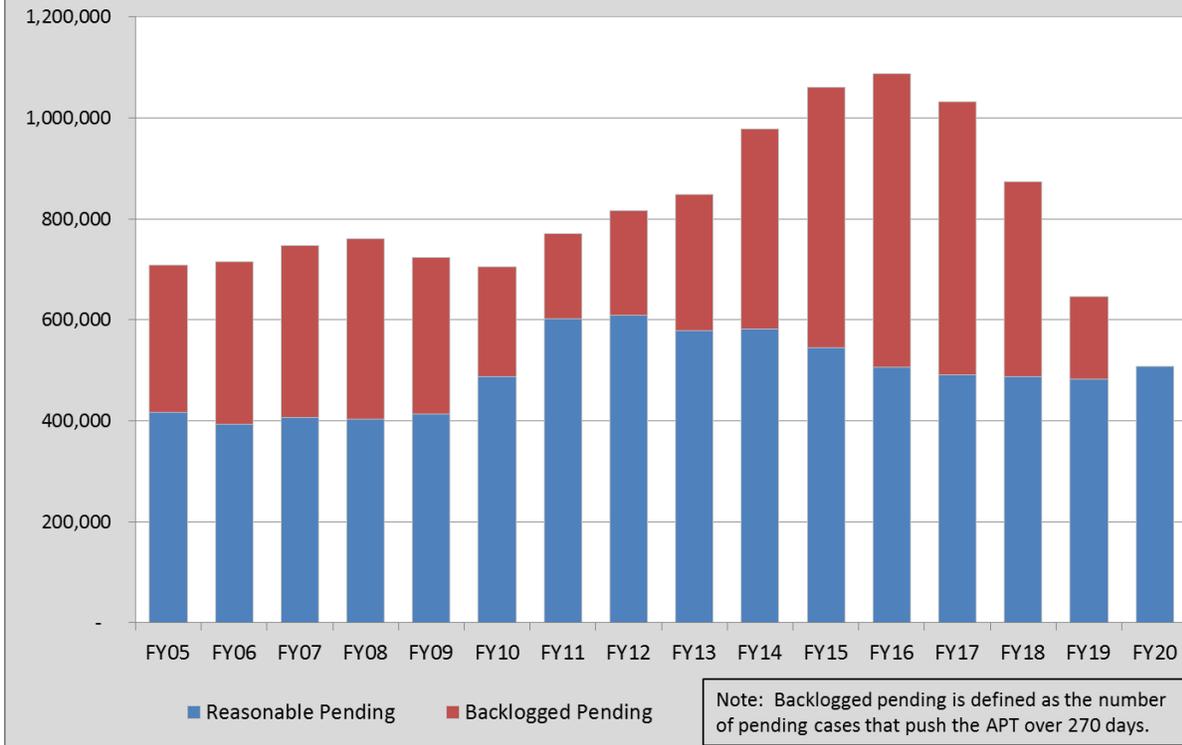
As shown below, having sufficient ALJs has a direct impact on the time claimants wait for a hearing decision. Sustained funding and the ability to hire sufficient ALJs and support staff will allow us to achieve an average wait time of 270 days by the end of FY 2020.



We have learned from our history of pending hearings and wait times that sufficient case processing is directly dependent on having a sufficient number of qualified ALJs. However, as we think broadly about the future of our programs and our customers, we know that we cannot base a sustainable plan to reduce the number of pending hearings and wait times solely upon ALJ hiring ability. Through our CARES plan, and with sustained and adequate funding and support from OPM, we expect to begin to eliminate the backlog in FY 2017 and to eliminate it by FY 2020. We also expect that we will reduce the average wait time for a decision from the over 500 days currently to no more than 270 days in FY 2020, and we expect to cut the number of pending cases in half.

# Successful CARES Plan Implementation

Projections as of January 2016



## Definition of Success for the Appeals Council

Our CARES plan is a comprehensive look at ODAR workloads including the Appeals Council (AC) in the Office of Appellate Operations (OAO), which among other activities is responsible for the final level of administrative review. The AC reviews ALJ decisions and dismissals and handles certain Federal court actions. There is a direct correlation between the number of cases handled and types of action taken by the hearing offices and AC workload levels. OAO anticipates a significant rise in the number of requests for review it receives from the hearing level as more ALJs are hired, trained, and issue dispositions.

The longer-term goal is to process requests for review in an average of 180 days. Staffing is the single factor that most strongly affects OAO's success in delivering timely service and continuing its important quality work. However, as we implement this plan, we are incorporating other measures we can take to assist in reducing wait times and number of pending cases at the hearings and the appeals levels.

## The CARES Plan

We built our CARES plan around two interdependent components: **people and quality**—engaged, well-trained people providing quality service. We consider the CARES plan a living document, which we will change as we gain more experience with each initiative, begin new initiatives, and adapt to the changes in our operational environment.

### *People*

Our employees have a strong commitment to public service. They understand that when they took the oath to become Federal employees, they accepted the responsibility to serve the American public. Our employees have a long tradition of serving our customers and a firm understanding that *who we serve is why we serve*. As we work to address the million people waiting for a hearing decision, it is important to note that our plan requires an emphasis on the people – our employees – who provide that service every day. Thus, our plan also includes initiatives that will help empower and engage our employees, provide them with improved tools to do their jobs, and foster an environment where they are best equipped to provide compassionate and responsive service.

*Who we serve is why we serve.*

### *Quality*

We are part of a rich organization whose “signature” is one of compassion and dignity in responsive service. Inherent in compassionate and responsive service to the American people is quality. We define high-quality decisions as policy-compliant and legally sufficient decisions. We have always had to operate in a high production environment, and the hearings process is no exception. Regardless of whether they ultimately receive benefits, the millions of people who apply for our benefits deserve timely decisions that are high quality. Quick decisions without quality or quality decisions without timeliness are not compassionate or responsive service.

### *The Importance of Investing in Quality*

Quality requires an investment, but that investment pays off. Employees who do quality assurance work can prevent additional work by limiting appeals and remands – allowing SSA to process the case once, not multiple times. ODAR quality reviews identify trends that may require policy clarifications or targeted training and feedback.

For example, beginning in 2011, we limited the number of cases that could be assigned to an ALJ. That limit helps ensure that ALJs take the time to follow SSA policy and procedures in their decisions. In addition, we provide desktop training and feedback tools to ODAR employees and ALJs, such as the *How MI Doing* tool. While there are administrative costs for expanded quality measures, many of our employees appreciate the convenience of this added assistance.

## *Tactical and Strategic Initiatives*

Our plan includes several broad categories of drivers that will propel our efforts to address the service crisis at the hearings and appeals levels. These include:

- ▶ [Business Process Improvements](#);
- ▶ [Information Technology Innovations](#);
- ▶ [Staffing and Facilities](#); and
- ▶ [Employee Engagement Activities](#).

### **Business Process Improvements**

We continue to look for opportunities to make the hearings and appeals process more efficient while ensuring quality decisions. Part of our strategy for moving forward includes frequent benchmarking with other agencies to both share information about our strategies and to learn about successful strategies they have used. We are also looking at ways to streamline our processes, eliminate duplication, and efficiently utilize our limited resources to provide better and faster service to the public.

In this section, we provide brief descriptions of our tactical initiatives and actionable strategies. Please note that this list of initiatives is not exhaustive – potential new initiatives may be added, and existing initiatives may be modified or removed depending on their success.

***Pre-Hearing Triage Initiatives:*** This set of initiatives aims to increase overall hearings adjudication and disposition capacity through new and innovative techniques and providing additional adjudication resources. Under this category, we plan to:

- ✓ Increase our use of Senior Attorneys where appropriate;
- ✓ Expand the use of pre-hearing conferences that explain the hearings process to and better prepare unrepresented claimants for their hearing;
- ✓ Test the use of predictive modeling in both hearing offices and the AC levels;
- ✓ Test the use of screening and data analytics tools (e.g. SmartMands); and
- ✓ Provide additional staff time and assistance to heavily impacted or backlogged hearings offices.

***Case Readiness Initiatives:*** Through this set of initiatives, we will improve the support provided to ALJs in case development and preparation. One key effort is our **1,000 Plus Page Initiative**, in which staff will review and prepare cases with 1,000 pages or more of evidence prior to the ALJ review and hearing.

***Optimized Hearing Office and Case Assistance Center Models:*** Under this strategy, we will address support staff efficiency by strengthening and streamlining hearing office and centralized case assistance business process models. Through these efforts, we plan to enhance information sharing among our hearing offices, national hearing centers, and our centralized case assistance centers. For example, in FY 2016, we will build and foster a more collaborative virtual working environment to support interaction between ALJs and geographically dispersed support staff. We will pilot the use of collaborative technologies to facilitate a virtual team model through a concept called the **Virtual Hallway**.

***Proactive Quality:*** In addition to the pre-effectuation and post-effectuation quality reviews that the AC conducts, we are testing an inline quality review process at the hearing level that promotes consistency and continuous improvement in case processing by ensuring: (1) case files are properly prepared; (2) cases are properly scheduled; (3) the record is adequately developed; and (4) a legally sufficient draft decision is prepared. Most importantly, our inline quality review initiative is designed to correct identified errors before a final decision is issued.

***Natural Language Processing Capabilities:*** Currently, the AC uses natural language processing (NLP) in its data analytics studies. NLP offers a way to extract select information from electronic disability records, converts unstructured information in text into structured or numerical data, and facilitates robust data analysis. The AC is testing the use of NLP to scan ALJ decisions for language that suggests a higher likelihood of an error so we can select and identify those cases for a pre-effectuation quality review. SSA is conducting a study with NIH researchers to explore automated ways to extract meaningful information from scanned images of medical records and identify duplicate documents.

## **Information Technology Innovations**

We designed our technology investments to provide faster, streamlined, and more efficient IT tools for our employees, external stakeholders, and the public. Specifically, any IT improvements we make must help to remove inefficiencies in our case processing systems, drive policy-compliance and consistency across offices, and/or provide self-service options that allow us to provide customer choice and redirect staff away from manual workloads. We will measure the success of any IT investment we make in the hearings and appeals process by the extent to which that investment helps to reduce the wait time for our customers and eliminate the number of backlogged cases.

Under this category of improvements, we plan to:

- ✓ Expand the use of video hearings in order to balance workloads and eliminate service inequity across the country;
- ✓ Provide online electronic folder access for medical and vocational expert contractors (MEs and VEs) to eliminate staff time to produce CD copies of case folders;
- ✓ Reduce the number of hearings level cases that turn into paper; and
- ✓ Develop an online Appeals Council (AC) Request for Review (iAppeals for Appeals Council) that will eliminate paper requests for review, reduce the potential for lost cases, and improve the efficiency of the AC's business process.

## **Staffing and Facilities**

### ***Staffing***

We are aggressively pursuing opportunities to increase our decision-making capacity. It is important to note that our plan depends on sufficient funding so we can hire a sufficient number of ALJs and support staff. As emphasized earlier, any significant setbacks in ALJ hiring will pose a serious challenge to reducing the number of pending hearings and wait times. We hope that with the recent passage of the Bipartisan Budget Act of 2015 and our close collaboration with OPM (our partner in the ALJ hiring process) we will have a sufficient quantity of qualified ALJ applicants across the country. We are also exploring ways to attract and recruit a greater number of prospective ALJ candidates

especially for harder-to-fill geographic locations. However, to make continual progress, we need a larger and continually updated list of qualified ALJ candidates and sufficient, sustained funding from Congress.

Concurrently, we are actively pursuing ways other organizations across SSA can help augment our adjudicative and non-adjudicative capacities to help with our growing appeals workloads. We realize that when we make the difficult decision to move work from one part of the agency to another, other important workloads are affected. To help address our current public service crisis, we plan to temporarily augment capacity by:

- ✓ Collaborating with the Office of Quality Review (OQR) who will assist ODAR in critical case processing activities; and
- ✓ Utilizing Appeals Council (AC) Administrative Appeals Judges (AAJs) to hold hearings and issue decisions on a subset of cases.

In the OAO that runs the AC, we will also focus on hiring appropriate staff and Administrative Appeals Judges (AAJs) to address the growing post-hearing appeals workloads and to reallocate current staff as necessary to help address the increased number of cases that will result from the increased decisions at the hearing level.

In addition to our focus on staffing, we are working to streamline the structure of work where it makes sense. For example, we recently realigned the Limited Income Subsidy Appeals Unit (SAU) from ODAR to the Office of Operations because of closer alignment with other Office of Operations workloads.

### ***Facilities***

We have a multipronged approach to better utilize our space, ensuring that we maintain focus on incorporating the staff we need into the space we currently have available. By increasing space options, we will provide greater access to hearings for claimants and reduce wait times.

We plan to:

- ✓ Repurpose vacant space that is already federally-owned or leased for the hearings operation;
- ✓ Make more efficient use of existing ODAR space; and
- ✓ Co-locate our hearing offices with field offices and continue to add “shared services” rooms in our field offices allowing claimants to participate in an ALJ hearing from the convenience of the local field office.

### **Employee Engagement Activities**

Increasing meaningful employee engagement is critical to our ability to serve the public and meet the demands of our growing workloads. A highly engaged workforce will increase innovation, quality, productivity, and performance.

We are using the results of the 2014 and 2015 Federal Employee Viewpoint Survey (FEVS) for ODAR employees and creating a plan of action to improve employee engagement.

Specifically, we plan to:

- ✓ Enhance communication and help build a shared set of goals across ODAR;
- ✓ Implement an internal ODAR development program, covering all positions and grade levels, in order to attract, retain, and develop employees for technical, management, and leadership positions; and
- ✓ Increase availability for telework under current collective bargaining agreements.

*I am always inspired by what our employees do every day – the amount of work that you do, the quality and accuracy of your work, and the compassion in which you deliver services. That is what makes our organization one of the best in government.*

*~ Acting Commissioner Carolyn Colvin*

### Other Long-Term Plans

We will continue to evaluate options and initiatives to improve service to our customers, as well as flexibilities or improvements in rulemaking. For example, in the past year we instituted new rules related to scheduling and appearing at hearings and the submission of evidence. We will continue to examine ways in which we can improve our service to provide a high quality, modern and timely disability appeals process.

**We're committed to new ways of doing business.**

### Conclusion

We have built our CARES plan around a set of two interdependent components—**people and quality**—and integrated those two components with a complementary set of tactical initiatives. Our plan builds on successful initiatives from past efforts and renews our commitment to finding new strategies to dramatically reduce wait times for the public and reduce the number of pending cases. However, this plan will not have a significant impact on the more than one million people waiting for a disability hearing decision without adequate and sustained funding – this is critical.

This plan offers a blueprint for steps we will take in the short-term but also lays out the path for evaluating potential future changes. With the unprecedented challenge of more than one million people waiting for a hearing decision, we cannot maintain the status quo.