



June 2022

SOCIAL SECURITY DISABILITY

SSA Expedited Most Critical Cases at Hearings Level but Lacks Consistent Policy Implementation

Why GAO Did This Study

Individuals who do not agree with an initial decision on a claim for Social Security disability benefits can appeal and eventually receive a hearing before an administrative law judge. SSA prioritizes certain disability appeals as critical for medical or financial reasons in order to resolve them more quickly. From fiscal years 2010 through 2020, SSA identified about 425,000 critical cases out of over 7 million appeals at the hearings level.

GAO was asked to review challenges that disability applicants who file appeals face. GAO examined (1) how SSA identifies critical cases at the hearings level and (2) the extent to which SSA expedites these cases.

GAO analyzed SSA hearing office case data from fiscal years 2008-2020, focusing on critical cases that followed the typical processing order (e.g., were not dismissed). GAO also reviewed SSA policies and procedures and interviewed agency headquarters officials, managers and staff from five of SSA's 164 hearing offices, disability advocates, and SSA employee unions. GAO selected the five hearing offices to provide variety in the percentage of critical cases, overall case volume, location, and population size.

What GAO Recommends

GAO is making two recommendations: that SSA (1) review the use of documentation of dire needs situations for consistency and (2) examine its handling of cases that indicate homelessness, eviction, or other critical need, to ensure these are expedited in accordance with policy. SSA agreed with our recommendations.

View [GAO-22-104191](#). For more information, contact Elizabeth H. Curda at (202) 512-7215 or CurdaE@gao.gov.

SOCIAL SECURITY DISABILITY

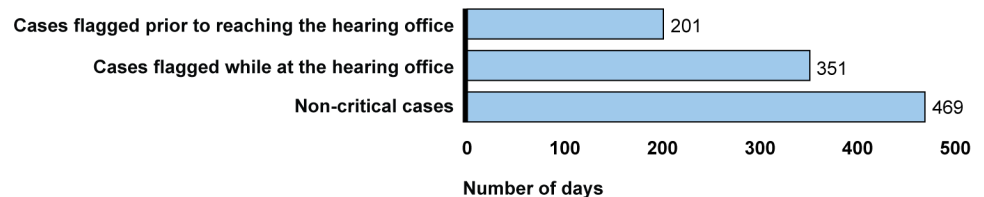
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What GAO Found

The Social Security Administration (SSA) flags a disability appeals case as critical after determining that the claimant's health or financial condition, such as having a terminal illness or dire financial need, meets criteria in SSA's policy manual. Cases can be flagged as critical before reaching a hearing office or during nearly any stage of the hearing process. SSA policy directs staff to expedite the case once it is flagged as critical. However, staff GAO interviewed from three of the five selected offices said that claimants must provide documentation of their dire financial need, even though SSA policy does not require it.

Hearing offices consistently processed critical cases faster than non-critical cases between fiscal years 2010 and 2020, but wait times varied depending on when the case was first flagged. Cases that arrived at a hearing office with a flag took a median 201 days to reach a hearing decision; those first flagged while they were at a hearing office took a median 351 days. This difference exists because hearing offices quickly begin work on flagged cases. In contrast, non-critical cases took a median 469 days (see figure). GAO found that, across the stages of the hearings process, critical cases flagged after reaching a hearing office spent the largest portion of the wait time in the stage before being assigned to a case worker. Once flagged during this waiting period, hearing office staff assigned most cases to a case worker within a week.

Median Hearing Wait Times for SSA Critical Cases by When the Flag Was Added, Fiscal Years 2010 to 2020



Source: GAO analysis of Social Security Administration (SSA) data. | [GAO-22-104191](#)

Note: In this figure, we refer to cases as "critical" or "non-critical" based on SSA's flagging of cases. This analysis does not examine whether individual cases varied in complexity, which may affect processing time. The figure excludes the 29 percent of hearings cases that did not follow the typical processing order.

SSA can initially designate a claimant's case to indicate the claimant faces homelessness, eviction, or another critical need. At hearing offices, however, these designations do not trigger expedited processing unless the case is also flagged for one of the seven hearing office critical case categories, such as dire need. GAO found that only 28.5 percent of cases that had a homeless designation also had a critical case flag, and thus were selected for expedited processing, despite SSA officials saying that most of these cases should qualify as dire need. This discrepancy could result from the existence of similar categories that are treated differently across multiple data systems, manual error, or changing circumstances. As a result, some claimants who qualify for expedited claim processing due to severe circumstances may not receive it.

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Abbreviations

ALJ	Administrative Law Judge
CPMS	Case Processing and Management System
DDS	Disability Determination Service
DI	Social Security Disability Insurance
HALLEX	Hearings, Appeals, and Litigation Law Manual
MIDIB	Management Information Disability
OHO	Office of Hearings Operations
OTR	On-the-Record
SHOP	Standard Hearings Operations Procedure
SSA	Social Security Administration
SSI	Supplemental Security Income

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June 16, 2022

The Honorable Bernard Sanders
Chairman
Committee on the Budget
United States Senate

The Honorable John Larson
Chairman
Subcommittee on Social Security
Committee on Ways and Means
House of Representatives

The Social Security Administration (SSA) manages two large disability benefit programs, Disability Insurance (DI) and Supplemental Security Income (SSI). In fiscal year 2021, these programs received about 2 million applications. According to SSA, these programs provided about \$190 billion in benefits in fiscal year 2021 and approximately 13 million adults with disabilities and their eligible dependents received benefits in December 2020.¹ If someone who applies for benefits from either of these programs is dissatisfied with SSA’s initial decision on benefit eligibility, the applicant can appeal the decision to multiple escalating levels of review, one of which is a hearing on the claim before an administrative law judge (ALJ).² From fiscal years 2008 through 2019, SSA received approximately 9 million appeals of initial DI or SSI decisions.³ We have previously reported that applicants who appeal a benefits denial can potentially wait years to receive a final decision, during which time an

¹The 13 million adults with disabilities described here do not include individuals who receive SSI benefits because they are 65 or over and meet the income and asset requirements.

²In this report, we use the term “hearings level” to refer to the level of review that involves a hearing before an administrative law judge. SSA uses the word “determination” to refer to the conclusion reached at the initial and reconsideration level of review. SSA uses the word “decision” to refer to the conclusions reached by an ALJ at the hearings level or the Appeals Council in its review of ALJ decisions. For ease of reference, in this report, we use the terms determination and decision interchangeably.

³In this report, we use the term “appeal” to refer to a request for review of a disability decision, whether at the reconsideration, hearings, or Appeals Council level. Some applicants filed more than one application for disability benefits during this period. In some cases, their applications were denied and so they filed more than one appeal. As such, 7.9 million distinct individuals filed the 9 million appeals.

applicant's health or financial situation could deteriorate.⁴ While most cases are processed in first-in-first-out order, SSA identifies some disability appeals as critical for medical or financial reasons and tries to expedite those decisions.

Given potentially long wait times for a final decision on benefits, and that those applying for disability are likely to have health and financial challenges, you asked us about worsening medical and financial conditions for DI and SSI applicants. This report follows our 2020 report about the incidence of bankruptcy and death among disability applicants awaiting a decision and examines SSA's processes at the hearings level.⁵ This report focuses on (1) how SSA identifies critical cases at the hearings level and (2) to what extent SSA expedites critical cases during its appeals process at the hearings level in order to shorten the overall wait time for these cases.

To describe how SSA identifies critical cases at the hearings level, we reviewed relevant SSA policies and procedures manuals, federal laws and regulations, and interviewed cognizant agency officials, staff and managers at five hearing offices, three advocacy organizations comprised of claimant representatives, and five professional or management organizations that represent SSA employee groups. We selected the five hearing offices from a total of 164 to provide variety in four areas: the percentage of cases hearing offices processed between fiscal years 2010 and 2020 that were identified as having a critical financial or medical need, overall case volume during these years, geographic location, and the location's population size.

To describe the extent to which SSA expedites critical cases during its appeals process at the hearings level, we obtained administrative data from SSA's Management Information Disability (MIDIB) database for all disability applicants who had filed an appeal of their initial disability determination between fiscal years 2008 to 2020, the most current data

⁴See GAO, *Social Security Disability: Information on Wait Times, Bankruptcies, and Deaths among Applicants Who Appealed Benefit Denials*, [GAO-20-641R](#) (Washington, D.C.: August 13, 2020).

⁵[GAO-20-641R](#).

available at the time of our review.⁶ We excluded cases that did not follow the typical processing order at the hearings level from our analysis because these cases would not allow us to compare processing times to the other cases in our sample.⁷ We used this administrative information to calculate overall wait times and elapsed days at key stages of the hearing process, and analyzed differences in wait times associated with variations in case characteristics, including whether and when the case was flagged as critical, the type of flag used, and the year the case was closed. In addition to the nationwide analysis, we also analyzed key measures for the five hearing offices we selected.

To assess the reliability of each of our data sources, we reviewed related documentation, conducted electronic testing, and interviewed relevant agency officials. We determined that the data were reliable for the purposes of our reporting objectives. For more information about our scope and methodology, see appendix I.

We conducted this performance audit from September 2020 to June 2022 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 our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

SSA administers the DI and SSI programs, which provide benefits to different populations. The DI program provides monthly payments to working-age adults (and their dependents or survivors) who are unable to work due to a long-term disability and have a sufficient work history. The

⁶Our analysis using this administrative data does not allow us to definitively take into account whether individual cases were substantially different in terms of complexity, which may affect processing time.

⁷For example, our analysis excludes cases where the claimant's case was dismissed or was still pending. Our analysis also excludes certain cases that SSA transferred to other hearing offices with greater capacity when these cases do not follow the typical processing order. These sample exclusions cover 29 percent of hearing office cases from fiscal years 2010 through 2020. For more information on case transfers, see GAO, *Social Security Disability: Better Timeliness Metrics Needed to Assess Transfers of Appeals Work*, [GAO-18-501](#) (Washington, D.C.: July 19, 2018). We also excluded child SSI applicants from our analysis because different program rules apply for child applicants. We begin our data extract in fiscal year 2008 because according to SSA, MIDIB data is complete and reliable beginning that year.

SSI program is a means-tested income assistance program that provides monthly payments to children or adults who are aged, blind, or have other disabilities and whose income and assets fall below certain levels.⁸ To be eligible for either program, a working-age adult must have a medically determinable physical or mental impairment that (1) has lasted or is expected to last for at least a continuous period of 1 year or is expected to result in death and (2) prevents them from engaging in substantial gainful activity (SGA).⁹

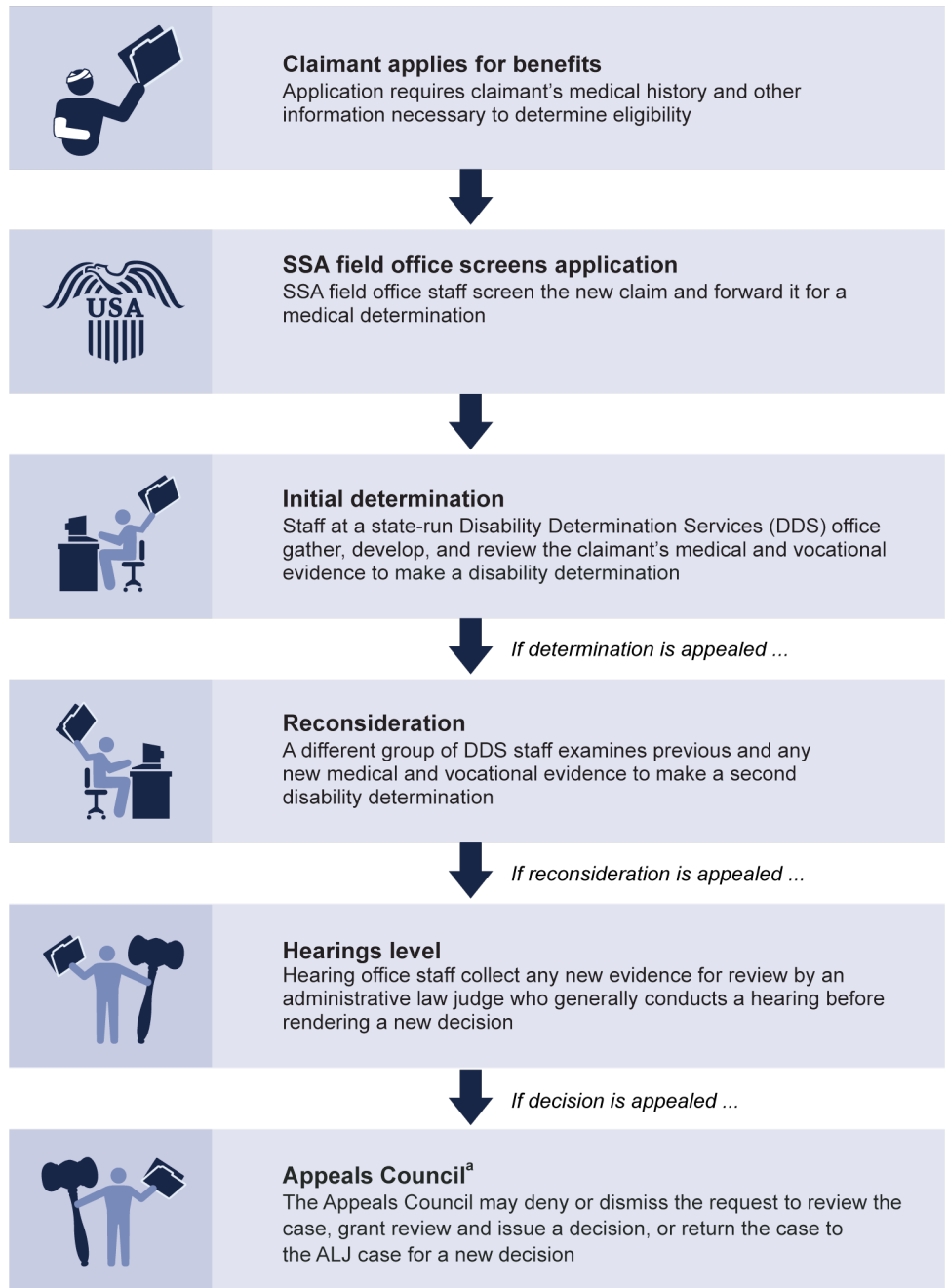
There are four levels to SSA's disability determination and appeals process. A disability determination service (DDS)—a federally funded state office that follows SSA policies and procedures—gathers, develops, and reviews an applicant's medical and vocational evidence to make a disability determination.¹⁰ Applicants who are denied at this level may pursue multiple levels of appeal. These include another review at the DDS—known as reconsideration—as well as reviews at the hearing office and Appeals Council. Claimants who wish to pursue their appeals further may file an action for judicial review in federal court (see fig. 1). Claimants may apply for benefits on their own or with the assistance of a claimant representative, such as a lawyer or disability advocate.

⁸Individuals with low incomes and assets who also have a sufficient work history may qualify for the DI and SSI programs concurrently, with SSI payments generally offset by DI payments.

⁹SSA considers an individual to be engaged in SGA if they earn above a certain monthly amount. In 2022, the monthly SGA amount is \$1,350 for non-blind individuals and \$2,260 for blind individuals.

¹⁰DDS offices are in each of the 50 states plus the District of Columbia, Guam, and Puerto Rico.

Figure 1: Social Security Administration (SSA) Adjudication of Claims for Disability Benefits



Source: GAO analysis of SSA information. | GAO-22-104191

^aIf parties are not satisfied with the Appeals Council decision, they may pursue the matter further in federal district court.

Wait times for a decision at the hearings level can be extensive. For example, SSA reported that claimants whose cases were decided in fiscal year 2021 waited an average of 326 days for their hearings decision. While SSA has recently made progress in reducing wait times at the hearings level—the average wait time for a hearing was 595 days in fiscal year 2018, 506 days in fiscal year 2019, and 386 days in fiscal year 2020—claimants waiting for a decision may experience a deterioration in their medical or financial situation. We recently reported that from fiscal year 2008 through fiscal year 2019, more than 109,000 people died while awaiting a final disability decision.¹¹

SSA generally processes pending disability hearings in first-in-first-out order. However, SSA policy documented in the Hearings, Appeals, and Litigation Law Manual (HALLEX) says that certain hearings cases where the claimant faces particularly urgent financial or medical needs should be expedited in an effort to get decisions to these claimants more quickly.¹² For example, because disability applicants may have no or very low earnings and cannot earn more than SGA without affecting their eligibility for benefits, they could experience negative financial outcomes, such as eviction, while awaiting a decision. Additionally, as disability applicants may have a serious medical condition, their health could deteriorate during a lengthy appeals process. Offices involved in handling disability claims—including SSA field offices, DDS offices, and hearing offices—may assign such cases a critical case category, or flag, that may qualify them for expedited processing.¹³ This study focuses on seven types of flags SSA staff at hearing offices use to identify cases with critical medical or financial needs: compassionate allowances, dire need, military casualty / wounded warrior, potentially violent, suicide threat,

¹¹[GAO-20-641R](#).

¹²SSA's Office of Hearings Operations (OHO) has written Standard Hearings Operations Procedure (SHOP) that further describes hearing office procedures.

¹³We did not evaluate SSA's decision to flag, or not to flag, individual cases as critical. Rather, in this report, we refer to cases as "critical" or "non-critical" based on SSA's flagging of cases, as reflected in the SSA administrative data we received.

terminal illness, and permanently and totally disabled veterans.¹⁴ (See appendix II for descriptions of these critical case categories.)

Receiving a critical case flag does not necessarily mean that SSA will approve a case for disability benefits. For example, SSA may find a claimant who is eligible for dire need processing not disabled under its medical criteria. Conversely, a case that is initially denied may later be flagged if, say, a health condition worsens into a terminal illness.

Hearing Offices May Identify a Disability Case as Critical Based on Changes in Evidence, but Are Inconsistent in Identifying Certain Types of Critical Cases

Hearing Offices May Flag a Case for Expedited Processing as a Result of Reviewing New Medical and Financial Conditions

Hearing offices flag a disability appeals case for expedited processing based on evidence that a claimant's health or financial condition meets SSA's critical case criteria, as defined in HALLEX. If a case arrives at the hearing office with a flag previously added, critical case supervisors assess whether that designation remains relevant,¹⁵ according to managers we interviewed at four of the five hearing offices we interviewed. For example, a hearing office might remove a flag added

¹⁴See HALLEX section I-2-1-40 and SHOP. Different SSA data systems use different terms to indicate a case is critical. For example, the hearing office Case Processing and Management System uses the term "case characteristic", while the eView electronic folder system refers to "flags". For ease of reference, we use the term "flag" throughout this report when referring to indicators of the seven critical case categories.

¹⁵In this report, we use the term "critical case supervisor" to refer to any hearing office official who is responsible for designating cases as critical. SSA policy provides this responsibility to the hearing office chief ALJ or their designee. See HALLEX I-2-1-40(B)(1). As such, the critical case supervisor role is not a specific position if the hearing office chief ALJ chooses to delegate this function. For example, in some hearing offices a group supervisor serves this role, while other hearing offices refer such cases to the hearing office director.

while the case was undergoing review at the DDS because a claimant was homeless at that time if the claimant has since obtained housing. Staff also alert critical case supervisors when they see new evidence that may meet SSA's critical case criteria, such as a diagnosis indicating that an illness has become terminal or a claimant lacks sufficient funds to pay their housing costs.

The evidence may be included in the hearing request and processed when the hearing office receives the appeal, or it may arrive later in the process, such as after the hearing office receives a medical or financial update from the claimant or their representative.¹⁶ Critical case supervisors then decide if evidence meets the critical case criteria in HALLEX. Slightly more than one-half (56 percent) of the critical cases hearing offices processed between fiscal years 2010 and 2020 had initially been flagged prior to reaching the hearing office and 42 percent had been first flagged while the case was at the hearing office.¹⁷

Flags can be added at nearly any point in the hearing process. According to SSA and hearing office management, once they identify a case as critical, policy in HALLEX directs hearing offices to expedite the case through the remainder of the process.¹⁸ Table 1 highlights key stages of the hearing process.¹⁹

¹⁶According to disability advocates, ALJs generally allow claimants to submit evidence close to or after the hearing date, as long as they or their representatives have complied with SSA's rule to notify the judge of any outstanding evidence at least 5 days before the hearing. HALLEX I-2-5-13 contains instructions for cases in which the claimant or representative has informed SSA about outstanding written evidence but has not yet submitted it, according to SSA.

¹⁷The remaining 2 percent were flagged during subsequent appeal, such as while the case was before the Appeals Council. These statistics exclude the 29 percent of hearings cases that did not follow the typical processing order.

¹⁸Specifically, HALLEX section I-2-1-40 contains SSA's policy concerning critical cases at the hearings level. See appendix II for descriptions of critical case categories under this policy.

¹⁹For the purposes of this report, we defined the stages based on key steps of the process and analyzed data to determine when each case was moved from one stage to another and when SSA added critical case flags.

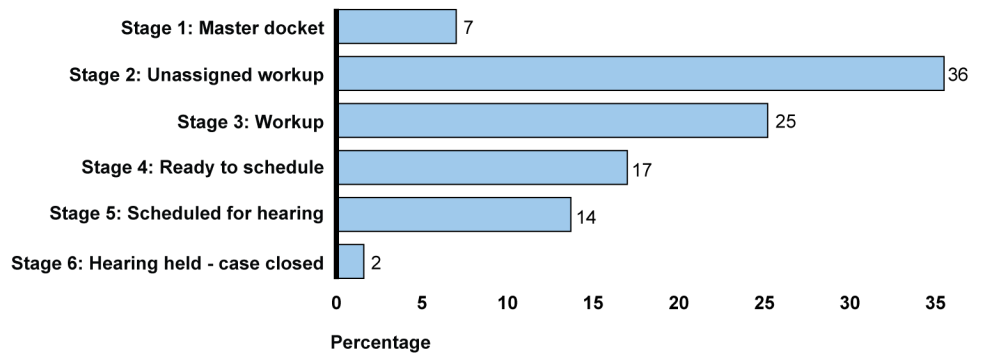
Table 1: Key Stages in the SSA Hearing Process

Stage	Description
1	Master docket: Staff check for completeness and administrative accuracy of new hearing requests in the hearing office's data system and send an acknowledgement letter to the claimant. They are instructed to refer the case to a critical case supervisor if the case had been previously flagged at the Disability Determination Services, or if the application contains new allegations of a deteriorated health condition or financial circumstances that may warrant adding a flag.
2	Unassigned workup: After staff have completed the master docket tasks, they change the case status to unassigned workup status, where it remains until the hearing office assigns it to a staff member to begin the workup process. This is the most common stage when hearing offices add critical case flags.
3	Workup: Once a case is assigned to a staff member, they begin to develop the case by assembling the medical and earnings records and other evidence and organizing everything in the electronic folder. They review the evidence to look for duplicate copies and note any urgent concerns that the critical case manager should review for a possible flag. They send out forms to gather updated information. If there is any outstanding evidence, staff will try to obtain it.
4	Ready to schedule: Once staff have initially reviewed the case, they place it in ready to schedule status until it is assigned a hearing date. Case development may continue during this time.
5	Scheduled for hearing: The scheduled hearing date must allow for a 75-day notice period, unless waived by the claimant. During this time the administrative law judge may do a pre-hearing analysis of the case.
6	Hearing held through case closed: The hearing is held and the judge makes a decision about the claimant's appeal. An attorney drafts the judge's decision, which the administrative law judge edits and signs. SSA notifies the claimant of the decision, and the case is closed.

Source: GAO analysis of Social Security Administration (SSA) data and interviews with officials and hearing office managers and staff. | GAO-22-104191

We found that 36 percent of critical cases flagged between fiscal years 2010 and 2020 were flagged during the second stage, unassigned workup (see fig. 2). This is the stage after staff have entered the case into the hearing office data system (master docket) and before the case has been assigned to staff to assemble the case in preparation for the hearing (workup). Even when the hearing office has not yet assigned a case to a specific staff member for workup, staff who receive incoming case documentation are expected to notify a critical case manager when new evidence indicates a potential critical case flag, according to hearing office procedures and officials.

Figure 2: Distribution of Critical Cases by Stage When Flagged While At SSA Hearing Offices, Fiscal Years 2010 to 2020



Source: GAO analysis of Social Security Administration (SSA) data. | GAO-22-104191

Note: In this figure, we refer to cases as “critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical. This figure excludes the 29 percent of hearings cases that did not follow the typical processing order.

HALLEX also states that hearing office management should first assess whether critical cases can be decided via an on-the-record (OTR) review. In certain circumstances, critical cases can be resolved more quickly through the OTR process, through which SSA approves benefits based solely on the documentary evidence, bypassing the hearing.²⁰ According to SSA policy, if an OTR decision is possible, the hearing office assigns the case to a decision writer for expedited writing. If an OTR decision is not appropriate, the critical case continues in the hearing process. SSA decided about 40,000 critical cases via the OTR process between fiscal years 2010 and 2020.

SSA flagged about 425,000 cases, or 6 percent of total appeals, as critical for medical or financial reasons between fiscal years 2010 and 2020. These cases include seven flag categories with dire need as the most commonly used, followed by suicide threat (see table 2). Case officers can add more than one flag per appeals case.

²⁰Claimants may also waive their right to an oral hearing and receive their decision via OTR review. According to SSA, an ALJ cannot issue a less than fully favorable decision via the OTR process unless the claimant has waived the right to a hearing in writing.

Table 2: Total Number of SSA Hearing Office Cases by Critical Flag Category, Fiscal Years 2010 to 2020

Type of critical case flag	Number of cases
Dire need	179,608
Suicide threat	112,634
Military casualty / wounded warrior	47,907
Permanently and totally disabled veterans	40,909
Terminal illness	34,975
Compassionate allowances	24,913
Potentially violent	13,940
Total flagged cases^a	424,539
Non-critical cases	6,664,577
Total cases	7,089,116

Source: GAO analysis of Social Security Administration (SSA) data; SSA’s Hearings, Appeals, and Litigation Law Manual (HALLEX). | GAO-22-104191

Note: In this table, we refer to cases as “critical” or “non-critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical.

^aThe total number of flagged cases is less than the sum of individual flags because some cases receive more than one flag.

Hearing Offices Are Inconsistent in Requiring Documentation for Dire Need Cases

SSA policy at the hearings level directs staff to expedite cases for claimants facing certain financial hardships—situations that pose an immediate threat to a claimant’s health or safety—without requiring documentation from the claimant. Specifically, HALLEX states that cases meet the dire need critical case criteria if a claimant lacks food, medicine, or medical care and is unable to obtain it; or lacks shelter. This policy directs staff to accept a person’s claim that a dire need exists unless there is evidence to the contrary. Furthermore, the policy explicitly directs hearing office employees to err on the side of designating these cases as critical.²¹

Despite this policy, staff from some hearing offices reported requiring documentation for dire need cases. Specifically, staff from three of the five selected hearing offices we interviewed mentioned requiring claimants to submit documentation, such as an eviction notice, to substantiate a dire need request. SSA management officials confirmed that, even though some hearing offices told us they may require

²¹HALLEX section I-2-1-40.

documentation to substantiate dire need, there is no written guidance or policy directing hearing offices to do so.

The possibility that claimants or their representatives may abuse the dire need policy motivates at least some of these documentation requests. For example, managers at one hearing office stated that claimant representatives from a local law firm had previously requested dire need processing for all of its cases in order to get its cases expedited. As a result, the hearing office could not determine which cases truly qualified as dire need and should be expedited, and it began requesting documentation for all dire need requests. Similarly, a management ALJ who previously worked in a different hearing office stated that his office began requesting documentation for evictions because some claimants were saying they were being evicted when they were not.

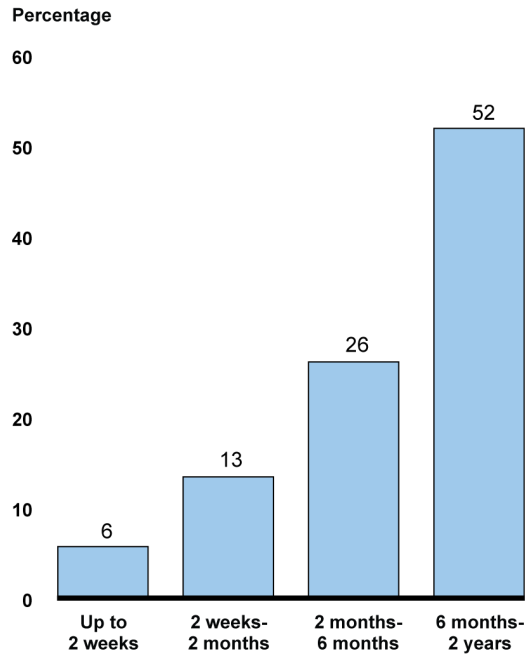
While the potential for abuse of the dire need policy may explain why a hearing office would change its practice, providing documentation of homelessness or another dire need situation can sometimes pose challenges for claimants. For example, a claimant representative pointed out that claimants who are homeless and staying temporarily with friends or family may not have an eviction notice to document their homelessness.

SSA's policy and guidance does not address the situation in which abuse of the dire need policy is suspected and whether or what type of documentation should be requested. The lack of guidance could result in inconsistent treatment of cases, with some hearing offices designating cases as dire need without requiring documentation and some requiring it, including documentation that is difficult to provide. As a result, some claimants may not receive expedited processing of their disability claims as envisioned under SSA's dire need policy.

Different Factors Affect the Amount of Time it Takes Hearing Offices to Flag Critical Cases

Our analysis of SSA data found that the amount of time between SSA receiving a hearing request and flagging a critical case varies from weeks to many months. Specifically, SSA flagged 5.7 percent of critical cases at the hearings level within 2 weeks of receiving the hearing request. However, SSA staff identified most critical cases significantly later. For example, hearing offices flagged 13 percent of critical cases between 2 weeks and 2 months, 26 percent between 2 and 6 months, and 52 percent between 6 months and 2 years (see fig. 3).

Figure 3: Percent of Critical Cases SSA Hearing Offices Flagged by When Flags Were Added, Fiscal Years 2010 to 2020



Number of weeks between when hearing offices received critical cases and when flags were added

Source: GAO analysis of Social Security Administration (SSA) data. | GAO-22-104191

Note: This figure includes only critical cases where flags were added up to 2 years after the case was opened, representing 97 percent of the total volume of cases in this category. The remaining 3 percent had flags added after 2 years. In this figure, we refer to cases as “critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical. This figure excludes the 29 percent of hearings cases that did not follow the typical processing order.

There are several reasons why it can take a long time for hearing offices to flag a critical case and begin to expedite it. Some claimants’ medical or financial conditions may deteriorate to a point that warrants a critical case flag only after the case has been at the hearing office for some time. Once the critical need has been identified, hearing office staff explained that they often need to wait for medical providers, claimants, and their representatives to provide supporting evidence. According to hearing office officials, staff review all new evidence as soon as it arrives and alert critical case supervisors when something needs urgent review. While hearing office staff can expedite cases with critical needs that were identified prior to an appeal when the cases arrive at the hearing office, cases with new critical needs, such as a cancer diagnosis that has

worsened, sometimes need new evidence to substantiate the claim.²² One hearing office staff member said that while some medical providers are quick to respond to requests for information, others are not. For some providers, staff have to send several notices before they respond. Claimant representatives we interviewed added that getting medical records from providers can be very costly and may create a barrier for claimants. Representatives said that they sometimes ask judges to subpoena the records, which can save the claimant hundreds of dollars, but judges sometimes deny these requests.²³ In addition, one hearing office's management explained that some unrepresented claimants may be difficult to locate or may be incapable of participating in the process and advancing their case due to their disability.

Claimant representatives we interviewed described other challenges and delays in getting critical cases flagged. Claimant representatives from two organizations said getting hearing offices to address new evidence typically requires follow-up phone calls to staff responsible for the case. Claimant representatives from the third organization said that hearing offices do not always review the content of updates submitted and do not always flag cases as critical when the evidence warrants it. One representative said that in her experience it can take 6 months for the agency to process health information on terminal illness cases.

Claimant representatives said that representatives and advocates can increase the likelihood that providing updated information to SSA will expedite the case, in part because SSA's systems are complex and challenging to navigate without assistance. Unrepresented claimants may not know what information to submit or understand the importance of self-advocacy. For example, an advocate may understand the implications of a health condition, such as end-stage renal disease, and advise the claimant to submit evidence that may help get the case processed more quickly.

²²A critical case may be denied at the DDS and appealed to the hearings level because the claimant's medical condition did not meet the disability criteria at the time of initial determination or reconsideration. For example, the claim may have been flagged as critical while the case was at the DDS level because of a financial need, such as homelessness, but did not meet the disability criteria at that time.

²³According to SSA, an ALJ will issue a subpoena if the claimant or ALJ cannot obtain the information or testimony without the subpoena and the evidence or testimony is reasonably necessary for the full presentation of the case. If the requested information or testimony is already part of the record, the ALJ will deny the subpoena request.

Representatives also said that claimants do not always tell them about changes in their health or financial status, perhaps because claimants do not know to do this or are embarrassed to acknowledge financial trouble. According to one group of representatives, most unrepresented claimants may not know that SSA can expedite critical cases. Claimant representatives also said that whether SSA reviews new evidence in a timely way can depend on involvement from a representative. Representatives said that if they do not bring updated medical and financial information to the attention of hearing office staff, staff will not flag the case as critical. Representatives acknowledged that SSA responds quickly once they flag a critical case.

Furthermore, SSA has different communication policies and processes for represented and unrepresented claimants. While claimant representatives can upload information into a claimant's file via an online portal and view it, unrepresented claimants may need to mail or fax the medical and financial records to SSA or rely on medical providers to provide information to SSA on their behalf, according to SSA officials and one group of claimant representatives. However, most new evidence comes in electronically—including via electronic faxes—according to hearing office managers, and this has lessened the need for hearing office management to enter offices to scan mail and paper faxes that had been sent while hearing offices were closed during the COVID-19 period. Although unrepresented claimants cannot access the online portal, they may request a secure electronic copy of their record, according to SSA. Claimant representatives said that the most effective way to reach the hearing office is to submit information electronically and follow up with a phone call. During the pandemic, hearing offices conducted enhanced outreach with unrepresented claimants, in which decision writers spoke with unrepresented claimants to review their files and request updated records when needed, according to hearing office staff and SSA management officials.

COVID-19 also contributed to delays in obtaining documentation from medical providers. SSA reported that, in the early months of the pandemic, some providers limited the availability of routine appointments, making it difficult for claimants to obtain needed examinations. As we previously reported, the number of new disability claims filed with SSA decreased during the early months of the pandemic, indicating some

claimants may have had difficulty obtaining and submitting medical evidence.²⁴

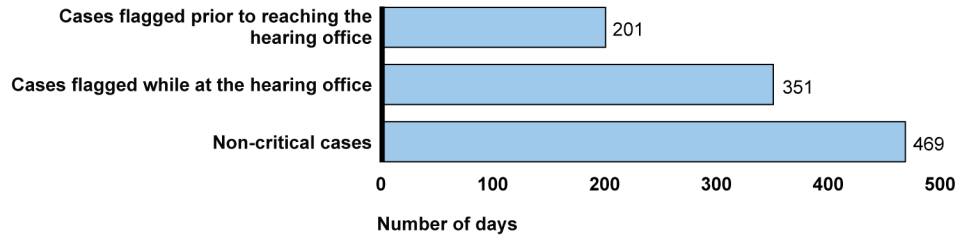
Cases Identified as Critical Generally Received Expedited Processing, but Some Appear Not to Have Been Expedited

Reduced Wait Times for Critical Cases Varied Based on Timing and Type of Flag

Hearing offices consistently processed critical cases faster than non-critical cases between fiscal years 2010 and 2020, as measured by the median number of days claimants waited from the date they filed a claim until SSA issued a decision. Over the 11-year period we examined, hearing offices processed critical cases in a median of 266 days—over 6 months faster than the 469 days for non-critical cases. Differences become more apparent by looking at when cases were first flagged. Cases that were flagged prior to reaching the hearing office took a median 201 days to reach a decision; in contrast, those flagged while the case was at the hearing office took a median 351 days, or about 5 months longer (see fig. 4). This difference may occur for different reasons. Staff are instructed to refer a case arriving at the hearing office with a flag to a critical case supervisor, meaning it is likely to get attention more quickly. Alternatively, some claimants may not experience a critical medical or financial condition until sometime after the case arrives at the hearing office, and thus the hearing office does not flag the case for expedited processing until later in the process.

²⁴GAO, *COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response, Enclosure on SSA Disability Service Delivery*, [GAO-21-191](#) (Washington, D.C.: Nov. 30, 2020).

Figure 4: Median Hearing Wait Times for SSA Critical Cases by When the Flag Was Added, Fiscal Years 2010 to 2020



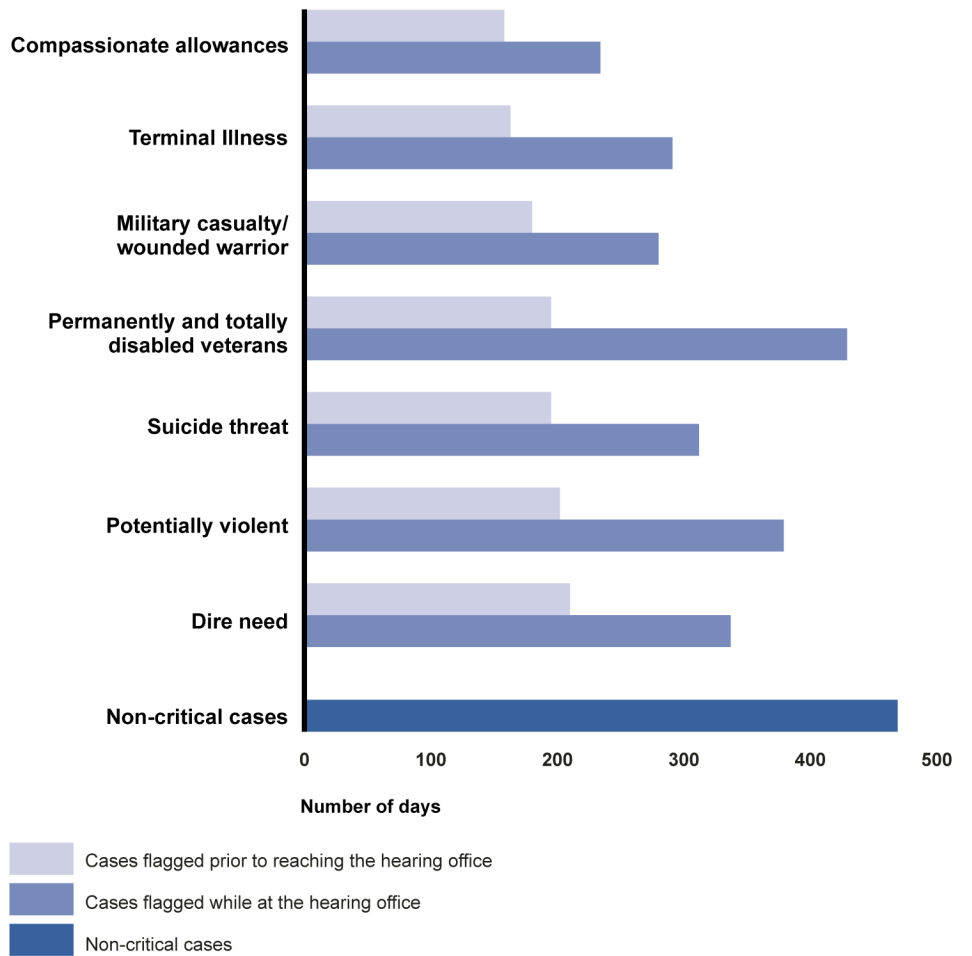
Source: GAO analysis of Social Security Administration (SSA) data. | GAO-22-104191

Note: Hearing wait times are measured as days elapsed between filing a request for a hearing and the close of the case at the hearings level. In this figure, we refer to cases as “critical” or “non-critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical. This figure excludes the 29 percent of hearings cases that did not follow the typical processing order.

The difference in median wait times between critical cases flagged prior to, versus at, the hearing office also varied by the type of flag applied. For example, SSA processed compassionate allowances cases for illnesses such as lung cancer 76 days faster when flagged prior to reaching the hearing office than when flagged while the case was at the hearing office.²⁵ Potentially violent critical cases were processed 177 days faster. The median wait time for non-critical cases (469 days) was higher than for all flag types (see fig. 5).

²⁵For more information on the compassionate allowances program see GAO, *SSA’s Compassionate Allowance Initiative: Improvements Needed to Make Expedited Processing of Disability Claims More Consistent and Accurate*, [GAO-17-625](#) (Washington, D.C.: Aug. 11, 2017).

Figure 5: Median Hearing Wait Time for SSA Cases by Critical Case Type and When the Flag Was Added, Fiscal Years 2010 to 2020



Source: GAO analysis of Social Security Administration (SSA) data. | GAO-22-104191

Note: Hearing wait times are measured as days elapsed between filing a request for a hearing and the close of the case at the hearings level. In this figure, we refer to cases as “critical” or “non-critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical. This figure excludes the 29 percent of hearings cases that did not follow the typical processing order.

Some Cases Where SSA Previously Identified a Critical Need Appear Not to Have Been Expedited at the Hearings Level

Staff processing cases can apply three designations that could indicate a critical situation, but that do not on their own result in expedited processing at the hearings level. Specifically, staff can add a designation to indicate that: 1) a claimant is facing homelessness, 2) a claimant is facing eviction, or 3) staff may apply a standalone “critical case” designation to certain cases under a policy that applies only to DI cases.²⁶ These designations may get added during initial case processing, prior to being appealed to a hearings office. According to SSA officials, the homeless, eviction, and “critical case” designations do not trigger expedited processing at the hearings level unless hearing office staff add a flag for one of the seven critical case categories.²⁷ (See table 3.)

Table 3: SSA Hearing Office Treatment of Cases by Type of Label

	Critical cases: Case types that hearing offices flag as critical and expedite	Case designations: Case types that hearing offices do not label as critical or expedite, unless the case also has one of the seven critical case types
Dire need	X	—
Suicide threat	X	—
Military casualty / wounded warrior	X	—
Permanently and totally disabled veterans	X	—
Terminal illness	X	—
Compassionate allowances	X	—
Potentially violent	X	—
Homeless	—	X
Eviction	—	X
Critical case ^a	—	X

Legend: X = hearing office treats case in this manner; — = hearing office does not treat case in this manner

Source: GAO analysis of Social Security Administration (SSA) information. | GAO-22-104191

Note: In this table, we refer to cases as “critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical.

²⁶See Program Operations Manual System DI 23020.005, Critical Cases.

²⁷Some SSA data systems refer to the homeless, eviction, and generic “critical case” designations as “flags”. In this report, we use the term “designations” to refer to these three categories in order to draw a clear distinction between these indicators and the critical case flags used at the hearings level. Additionally, cases can receive other flags for reasons unrelated to critical case categories, such as an “aged case” flag for cases whose processing times exceed targets. Those other flags are not included in this analysis because they are outside the scope of this report, namely changes in claimants’ medical and financial condition.

^aCases may receive a generic “critical case” designation that is not associated with a specific medical or financial concern from a field or Disability Determination Service office. See Program Operations Manual System DI 23020.005, Critical Cases.

According to SSA officials, HALLEX indicates that for a case with a homeless or eviction designation, the hearings office should “designate [these cases] as a dire need case.”²⁸ Similarly, a case that arrives at a hearing office with a generic “critical case” designation may qualify for one of the seven critical case flags that trigger expedited processing.²⁹ Hearing office staff responsible for case intake would need to identify these situations and bring them to the attention of a critical case supervisor.

However, SSA data show that in total, most cases with a homeless, eviction, or generic “critical case” designation do not have any of the seven flags for critical case processing at the hearings level. Table 4 shows that of the almost 113,000 cases that received one of these three designations, only 30.8 percent also received one of the seven critical case flags that expedite processing at the hearings level. The most common of these three designations, homeless, was assigned in 94,189 cases; only 28.5 percent also received a flag that triggers expedited processing.

Table 4: Percentage of Hearing Cases with Homeless, Eviction, or Critical Case Designations That Also Were Also Flagged for Expedited Processing

Designation	Number of Cases With Designation	Percentage of Cases Flagged for Expedited Processing at the Hearings Level	Percentage of Cases Without Flag for Expedited Processing at the Hearings Level
Homeless	94,189	28.5	71.5
Critical case ^a	15,677	40.2	59.8
Eviction	3,057	54.3	45.7
Total	112,923	30.8	69.2

Source: GAO analysis of Social Security Administration (SSA) data. | GAO-22-104191

Note: In this table, we refer to cases as “critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical.

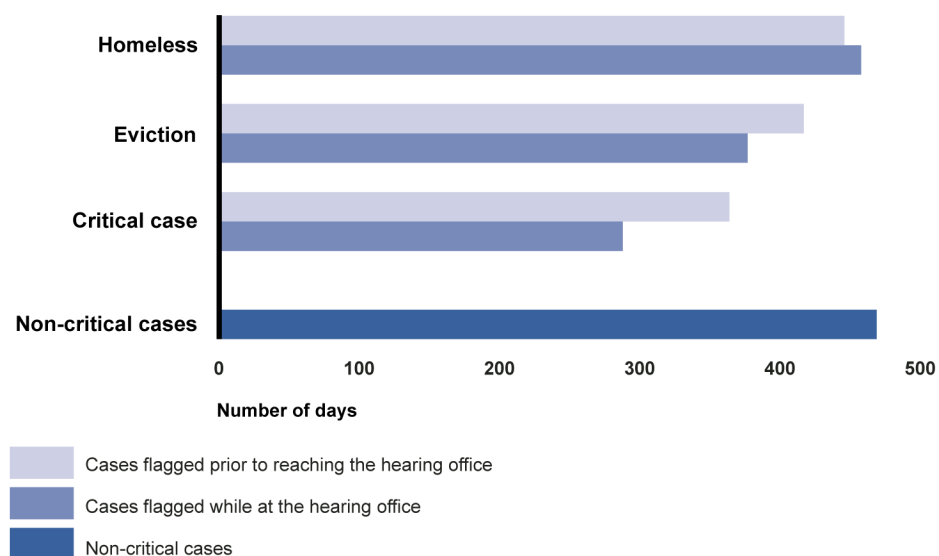
^aCases may receive a generic “critical case” designation that is not associated with a specific medical or financial concern from a field or Disability Determination Service office. See Program Operations Manual System DI 23020.005, Critical Cases.

²⁸SSA officials cited HALLEX I-2-1-40(A)(5) and HALLEX I-2-1-95.

²⁹According to SSA, the agency also uses the generic “critical case” designation for some cases with adverse public relations potential. Such cases may not qualify for a critical case flag under HALLEX I-2-1-40.

As Figure 6 shows, in practice, the cases that received a homeless, eviction, or generic “critical case” designation prior to reaching the hearing office took longer to reach a decision than those cases that were flagged with one of the seven critical case flags prior to reaching the hearing office. (Compare to fig. 5). Cases with one of the three designations but no critical case flag took somewhat less time than non-critical cases; those with only a homeless designation had similar processing times as non-critical cases.

Figure 6: Median Hearing Wait Time for SSA Cases by Type and When the Homeless, Eviction, or Generic Critical Case Designation Was Added, Fiscal Years 2010 to 2020



Source: GAO analysis of Social Security Administration (SSA) data. | GAO-22-104191

Note: In this figure, we refer to cases as “critical” or “non-critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical. This figure excludes the 29 percent of hearings cases that did not follow the typical processing order.

^aCases may receive a generic “critical case” designation that is not associated with a specific medical or financial concern from a field or Disability Determination Service office. See Program Operations Manual System DI 23020.005, Critical Cases.

That a majority of cases with a homeless designation do not also have a dire need flag raises questions about whether SSA is missing opportunities to provide expedited processing to claimants who may still be facing a critical situation during their appeal. There are different possible reasons for homeless or eviction designations not to get flagged as dire need. SSA management officials noted that determining whether a critical case flag should be added to a case is a judgment made in light of

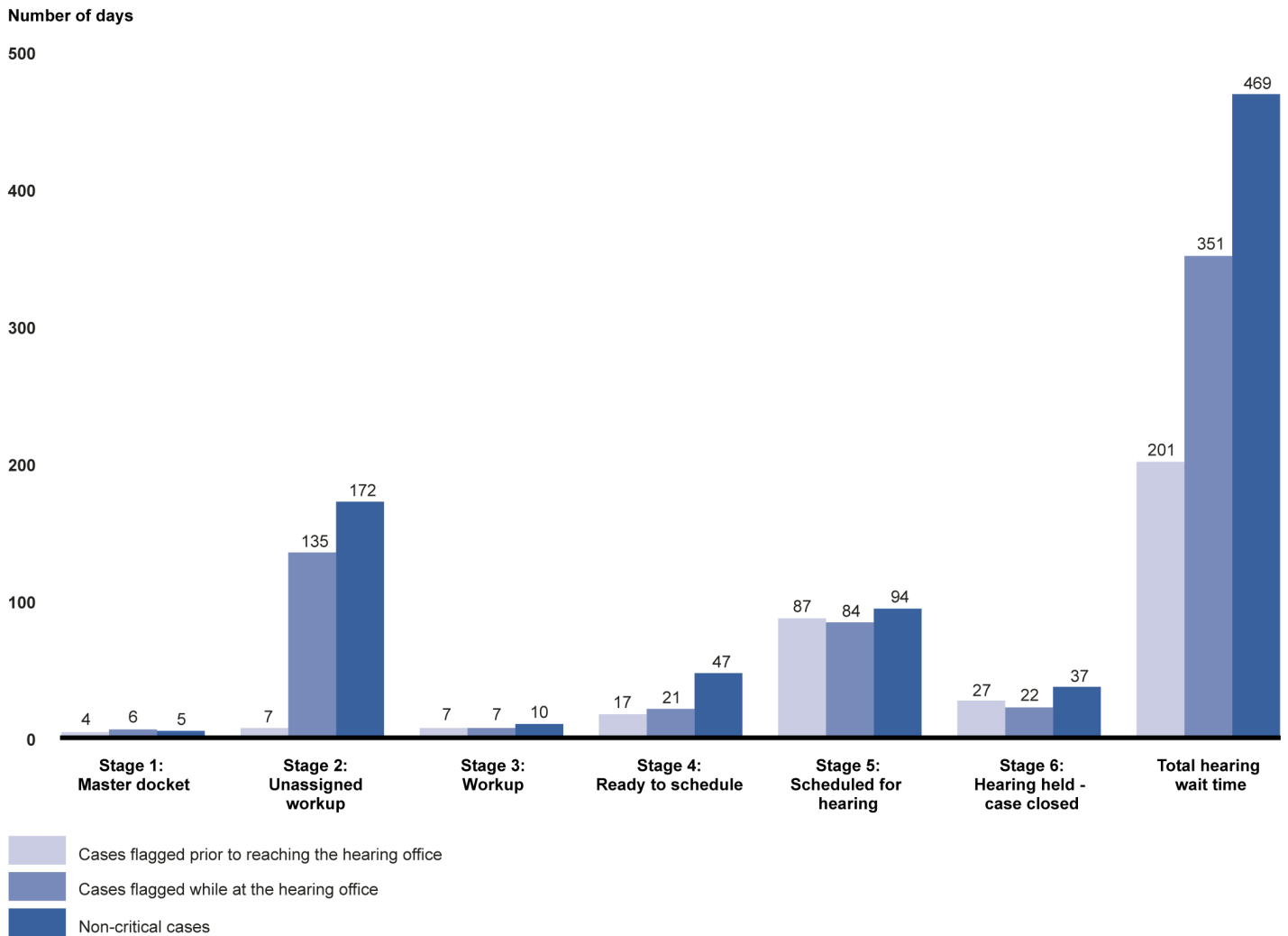
the individual circumstances of the case. For example, one official stated that dire need processing might not be appropriate for a claimant who is technically homeless but has a stable long-term placement at a shelter. However, because adding and removing these markers involves manual processes, it is also possible that staff could simply neglect to remove a homeless designation from a claimant who has secured housing, making it erroneously appear in the data that the claimant remains homeless but is not receiving dire need processing. In contrast, in other cases the homeless designation may be correct, but staff have not added a critical case flag that would allow the case to receive expedited processing. Given the existence of similar categories across different data systems and SSA's reliance on manual processes, such errors may likely occur. As a result, SSA's current practices could result in not providing critical case processing to claimants for whom SSA's data otherwise indicates are homeless, facing eviction, or have another critical need.

Critical Cases Flagged Early in the Appeals Process Had Shorter Overall Wait Times

By examining the median number of elapsed days for each stage of the appeals process, we found that the biggest reduction in processing time for critical cases happened at stage 2, unassigned workup. This stage took 165 fewer days for cases first flagged prior to reaching the hearing office, and 37 fewer days for cases first flagged at the hearing office, than for non-critical cases from fiscal year 2010 to 2020.³⁰ The next largest time reduction was at stage 4—representing the time between completing the case file and scheduling the hearing date—which took as much as 30 fewer days than for non-critical cases (see fig. 7). Our analysis shows more modest time reductions at all other stages.

³⁰Stage 2 is also when hearing offices flagged the greatest proportion of critical cases. Among cases flagged while the case was at the hearings level, 7 percent were flagged at master docket, 36 percent at unassigned workup, 25 at workup, 17 at ready to schedule, 14 at scheduled for hearing, and 2 percent after the hearing was held.

Figure 7: Median Number of Elapsed Days for Key Processing Stages in SSA Processing Cases by When and Whether Flagged as Critical, Fiscal Years 2010 to 2020



Source: GAO analysis of Social Security Administration (SSA) data. | GAO-22-104191

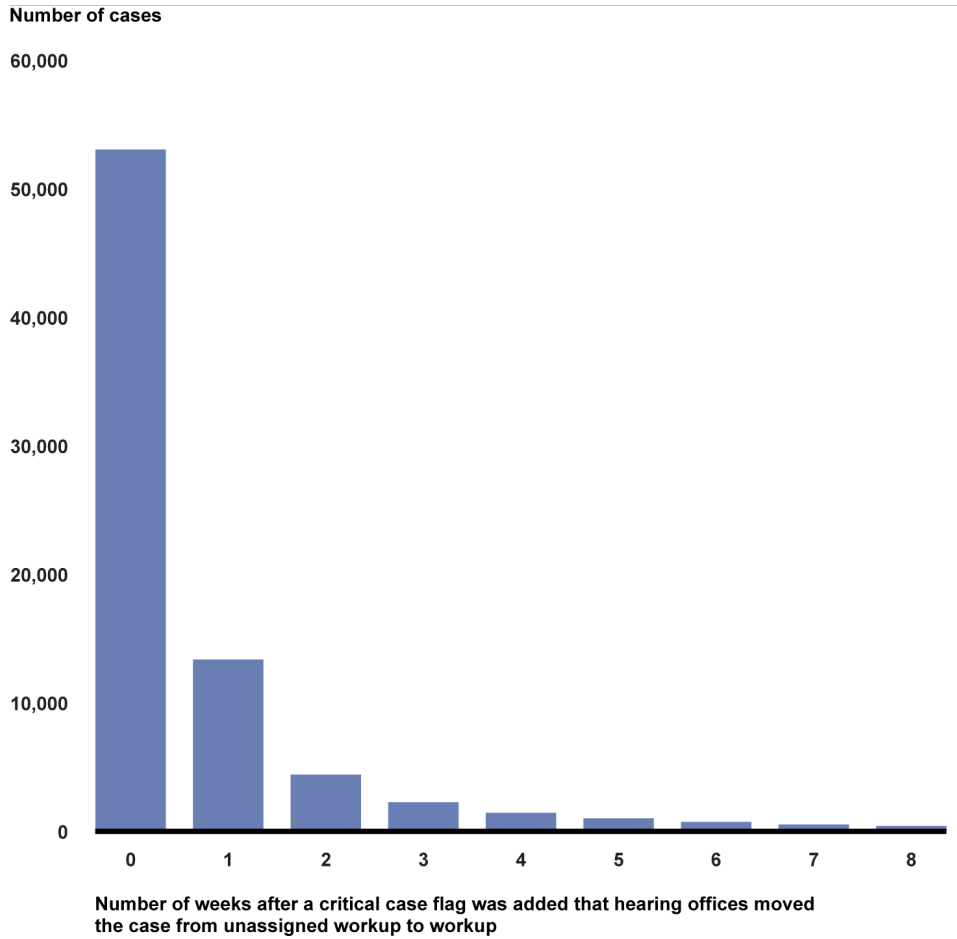
Note: The scheduled hearing date must allow for a 75-day notice period, unless waived by the claimant or their representative. In this figure, we refer to cases as “critical” or “non-critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical. This figure excludes the 29 percent of hearings cases that did not follow the typical processing order.

As shown in figure 7, cases typically spent the most time during processing at stage 2, unassigned workup, for all cases except those flagged as critical prior to reaching the hearing office. According to an official from the Office of Hearings Operations (OHO), the factors that determine the amount of time a case spends in unassigned workup status include how many cases are in the pipeline, how many are already worked up, how many hearings are scheduled, and whether the ALJ's hearing docket is full. OHO schedules hearings to fill ALJs' dockets: up to 50 cases per judge at a time and about 90 days before the hearing date.³¹ Consequently, the ALJ's availability often drives the timeline for moving cases through the appeals process.

An OHO official explained that moving a case to the next step in the process is a balancing act. Hearing offices do not want to get evidence too soon because then it will have to be updated, causing staff and the claimant to do extra work. However, having the evidence in the file as soon as possible is beneficial if it makes the case eligible for an OTR decision, which can generate a faster decision on the claim. The closer the evidence arrives to the hearing, the more accurate it is and the more it limits staff time spent on developing the case file. Staff in one hearing office we interviewed said that cases remain at stage 2—unassigned workup—until staff members have the capacity to work on them. Managers do not overload staff with cases that they do not have time to process at any given time. Figure 8 shows that, when hearing offices flagged cases as critical during unassigned workup (stage 2), they moved most of those cases to workup (stage 3) within a week.

³¹OHO management expects ALJs to schedule a sufficient number of hearings, which is generally 50 hearings per month absent extenuating circumstances, according to SSA.

Figure 8: Number of Weeks Between SSA Adding a Critical Case Flag and Moving the Case to Workup, Fiscal Years 2010 to 2020



Source: GAO analysis of Social Security Administration (SSA) data. | GAO-22-104191

Note: The figure includes only those critical cases that received a flag and were moved to workup status within 8 weeks. Very few critical cases received flags later than 8 weeks after reaching stage 3. In this figure, we refer to cases as “critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical. This figure excludes the 29 percent of hearings cases that did not follow the typical processing order.

Both the Proportion of Cases Identified as Critical While the Case Was at the Hearing Office and Their Processing Times Varied Among the Offices We Examined

Our analysis of five hearing offices' number of cases flagged as critical, and the processing times for these cases, illustrates how these metrics can range across offices. Nationally, SSA flagged 2.0 percent of cases as critical while the cases were at hearing offices from fiscal year 2010 to 2020. As table 5 shows, the percent of cases these offices flagged as critical ranged from 0.8 to 2.9 from fiscal year 2010 to 2020.³²

Table 5: Percentage of Critical Cases at Selected Hearing Offices, Fiscal Years 2010 to 2020

Location	Percent of cases flagged as critical while at the hearing office
Hearing office A	0.8%
Hearing office B	2.6%
Hearing office C	2.9%
Hearing office D	1.9%
Hearing office E	1.6%
Entire US	2.0%

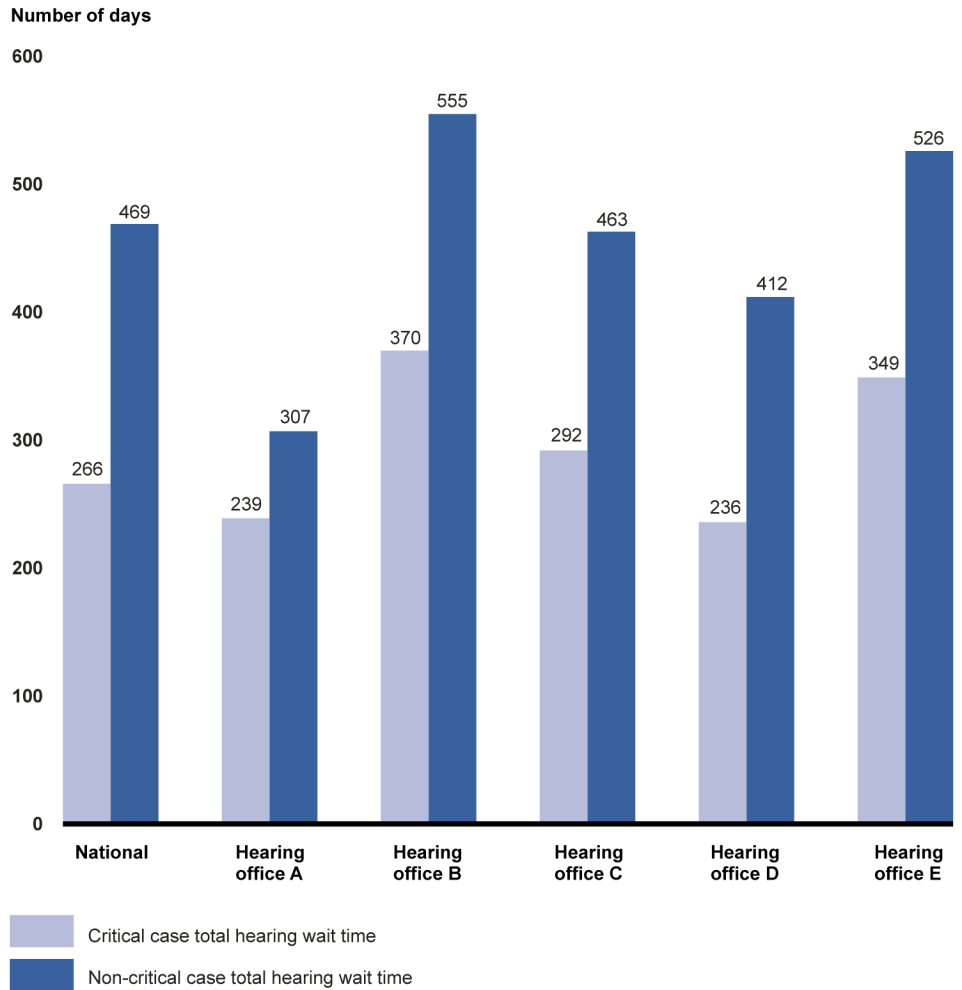
Source: GAO analysis of Social Security Administration (SSA) data. | GAO-22-104191

Note: In this table, we refer to cases as "critical" based on SSA's flagging of cases. We did not evaluate SSA's decision to flag, or not to flag, individual cases as critical. This table excludes the 29 percent of hearings cases that did not follow the typical processing order.

The processing times for critical cases also varied substantially across these five hearing offices. For example, hearing office A had the smallest difference between wait times for critical and non-critical cases at the hearings level—a median of 68 days. In contrast, hearing office B processed critical cases a median 185 days faster than non-critical cases (see fig. 9).

³²We did not examine the underlying reasons why the number of cases flagged, and the time it took to process them, varied among the five hearing offices we interviewed.

Figure 9: Median Wait Times for Cases for Five SSA Hearing Offices, Fiscal Years 2010 to 2020



Source: GAO analysis of Social Security Administration (SSA) data. | GAO-22-104191

Note: In this figure, we refer to cases as “critical” or “non-critical” based on SSA’s flagging of cases. We did not evaluate SSA’s decision to flag, or not to flag, individual cases as critical. This figure excludes the 29 percent of hearings cases that did not follow the typical processing order.

SSA reports that hearing office management, and the regional offices that oversee the offices, monitor critical cases as they progress through each case status using management reports that identify flagged cases and their processing times. SSA management officials noted that many factors outside the agency’s control can affect the processing time of flagged cases, such as the availability of medical experts or a claimant’s representative. According to hearing office managers and regional office

officials, if a flagged case appears to be taking longer than expected, hearing office management investigates why it is taking so long, and in some cases regional office staff may follow up on specific cases. At a national level, the Office of the Chief Administrative Law Judge reaches out to regional office management weekly about critical cases that have exceeded benchmarks, according to SSA. Additionally, SSA's quality control review includes checking whether critical case procedures, if applicable, were followed correctly, according to SSA management officials.

Conclusions

SSA has policies and processes in place to identify and expedite disability cases at the hearings level in which claimants face certain critical financial or medical needs, and has generally succeeded in prioritizing these cases. However, in some situations, claimants who meet SSA's criteria for expedited processing may face unnecessary delays in processing their cases.

In particular, individual hearing offices sometimes require claimants who seek dire need processing due to severe financial hardship to produce documentation of their situation despite SSA policy instructing staff to err on the side of expediting these claims. While hearing offices may seek such documentation in part to avoid potential abuse of the policy, no agency policy or guidance directs them to do so or details when it is appropriate to deviate from the policy and what, if any, documentation to require. A claimant representative noted that providing documentation of dire need situations can sometimes pose challenges for claimants. Under current practices, claimants may face inconsistent practices across hearing offices, and some claimants who would qualify for dire need processing may have trouble getting their claims expedited.

Furthermore, it appears that SSA does not expedite many cases that arrive at the hearings level with a designation of homeless, eviction, or other critical need, despite SSA officials saying that most of these cases should qualify as dire need. This could result from changing circumstances after the hearing office processes the case. However, the existence of similar categories across different data systems and SSA's reliance on manual processes to coordinate this information across multiple data systems and offices, and the use of designations that do not by themselves trigger expediting, may increase the likelihood that some claimants who are eligible for expedited claim processing may not receive it.

Recommendations

We are making the following two recommendations to SSA:

The Commissioner of the Social Security Administration should ensure that appropriate oversight staff review the consistency of the Office of Hearings Operation's use of documentation requirements for dire need situations and consider changes that balance the potential for abuse under the current policy—such as some applicants falsely claiming dire need in order to receive priority processing—against the potential that excessive documentation requirements may prevent otherwise eligible claimants from having dire need cases expedited. (Recommendation 1)

The Commissioner of the Social Security Administration should examine the agency's handling of cases at the hearings level that indicate homelessness, eviction, or another critical need, and revise the agency's procedures to ensure that hearing offices are expediting these cases in accordance with SSA policy. (Recommendation 2)

Agency Comments

We provided a draft of this report to SSA for review and comment. In its comments, reproduced in appendix III, SSA agreed with our recommendations. SSA also provided technical comments, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Commissioner of Social Security, and other interested parties. In addition, the report will be available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or curdae@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.



Elizabeth H. Curda
Director, Education, Workforce, and Income Security Issues

Appendix I: Objectives, Scope, and Methodology

This report focuses on (1) how the Social Security Administration (SSA) identifies critical cases at the hearings level and (2) to what extent SSA expedites critical cases during its appeals process at the hearings level in order to shorten the overall wait time for these cases.

To answer both of these questions, we reviewed relevant federal laws and regulations as well as relevant SSA policies and procedures. These SSA materials included relevant sections of the Hearing, Appeals, and Litigation Law Manual, which contains policies for hearing offices, and the Standard Hearing Office Procedures, which provides operational details. We interviewed cognizant SSA officials from agency components including the Office of Hearings Operations, the Office of Retirement and Disability Policy, and the Office of Systems. We also interviewed three advocacy organizations comprised of claimant representatives, and five professional or management organizations that represent SSA employee groups.

To obtain the perspectives of hearing operations staff and managers on critical case processing, we selected five hearing offices, out of 164, for interviews. We selected these to provide variety in four areas from fiscal years 2010 through 2020: the percentage of cases hearing offices processed that were identified as having a critical financial or medical need; overall case volume during these years; geographic location; and the location's population size. We determined the percentage of cases identified as critical and case volumes through our analysis of SSA administrative data on disability hearings, described below. These five hearing offices were located in California, Massachusetts, Missouri, Pennsylvania, and Texas. In each office, we interviewed management officials including the hearing office directors. We also separately held interviews with groups of staff from each office. To identify these staff, we obtained employee rosters for the offices and randomly selected staff from within each of the relevant job titles.

To conduct quantitative analysis of critical case processing at the hearings level, we obtained administrative data from two related SSA data systems. Specifically, we obtained information from SSA's Management Information Disability (MIDIB) and Case Processing and Management System (CPMS) databases for all adult disability applicants who had filed an appeal to their initial disability determination between fiscal years 2008 to 2020, the most current data available at the time of our review. MIDIB contains information on all disability applicants from their initial application through any appeals. CPMS is a data system that contains detailed information about disability appeals, and it is among the

data systems that populate MIDIB. We conducted our analyses using a core data extract from MIDIB, which we supplemented with CPMS data for some variables that are included in that system but not MIDIB.

SSA administrative data does not allow definitive assessments of individual case complexity and therefore our methodology does not attempt to analyze why SSA may process one case faster or slower than another. For example, a claimant who provides distinct evidence of a diagnosis that clearly meets SSA's medical criteria may have a case that is easier for SSA to adjudicate than a claimant with voluminous medical records but no single diagnosis that distinctly meets the medical criteria.

We did not evaluate SSA's decision to flag, or not to flag, individual cases as critical. Rather, in this report, we refer to cases as "critical" or "non-critical" based on SSA's flagging of cases, as reflected in the SSA administrative data we received. Our description of cases as "critical" or "non-critical" thus does not imply that we independently determined whether these cases qualify as critical cases under SSA policy.

Our data extract consists of records for disability claimants whose denied claims were filed beginning in fiscal year 2008.¹ The results we present cover hearings in fiscal years 2010 through fiscal year 2020. Before a claimant's appeal reaches a hearing, time elapses for the initial denial and, where applicable, a reconsideration of the initial denial.² As a result, relatively few claimants in our data extract received decisions about hearings cases in fiscal year 2008 and 2009, so we excluded hearings decided in those years to ensure comparable data across years. We excluded child SSI applicants from our data extract because different program rules apply for these applicants. To assess the reliability of these data sources, we reviewed related documentation, conducted electronic testing, and interviewed relevant agency officials. We determined that the data were reliable for our purposes.

¹We began our data extract in fiscal year 2008 because according to SSA, MIDIB data is complete and reliable beginning in that year.

²Currently, all disability claimants who appeal an initial denial receive a reconsideration of their case before their appeal at the hearings level. In 1999, SSA eliminated the reconsideration step of appeals in nine states and part of California as part of a disability redesign prototype. SSA restored the reconsideration process in six of these states in fiscal year 2019 and completed restoring it in the remaining states in March 2020.

We used these administrative data to calculate overall wait times and elapsed days at key stages of the hearing process. Given our goal of trying to identify segments of the appeals process that could explain wait times, we divided the cases into six distinct stages at the hearings level that represent discrete steps of the hearings process. We therefore decided to exclude cases that did not follow the typical processing order at the hearings level from our analysis because these cases would not allow us to compare processing times at each stage to the other cases in our sample.³ For example, our analysis excludes cases where the claimant's case was dismissed or was still pending. Our analysis also excludes certain cases that SSA transferred to other hearing offices with greater capacity when these cases do not follow the typical processing order.⁴ These sample exclusions cover 29 percent of hearing office cases from fiscal years 2010 through 2020.

For our analysis sample, we analyzed differences in wait times associated with variations in case characteristics, including whether and where it was flagged as critical, the type of flag used, and year the case was closed. In addition to the nationwide analysis, we also analyzed key measures for the five hearing offices we selected.

We conducted this performance audit from September 2020 to June 2022 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 our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

³Specifically, we checked that the dates of master docket, workup, hearing held, and case closed were not missing and were in sequential order.

⁴See GAO, *Social Security Disability: Better Timeliness Metrics Needed to Assess Transfers of Appeals Work*, [GAO-18-501](#) (Washington, D.C.: July 19, 2018).

Appendix II: Social Security Disability Appeals Critical Case Descriptions

Table 6: Descriptions of Critical Case Flags at Hearings Level of Social Security Disability Appeals

Type of flag	Description of critical case category
Compassionate allowances	The compassionate allowances process identifies diseases and other medical conditions that invariably meet SSA's medical criteria for disability benefits.
Dire need	<p>A dire need situation exists when a claimant alleges any of the following circumstances:</p> <ul style="list-style-type: none"> • The claimant is without food and is unable to obtain it. • The claimant lacks medicine or medical care and is unable to obtain it, or the claimant indicates that access to necessary medical care is restricted because of a lack of resources. • The claimant lacks shelter (e.g., without utilities such that his or her home is uninhabitable, homelessness, expiration of a shelter stay, or imminent eviction or foreclosure with no means to remedy the situation or obtain shelter). <p>Absent evidence to the contrary, accept a person's allegation that he or she does not have enough income or resources to meet an immediate threat to his or her health or safety. Office of Hearings Operations employees will err on the side of designating the case critical. If a dire need situation becomes non-critical, the critical designation can be removed or modified.</p>
Military casualty/wounded warrior	<p>The claim involves any current or former member of the military service who:</p> <ul style="list-style-type: none"> • Sustained an illness, injury, or wound; • Is alleging a physical or mental impairment, regardless of how the impairment occurred, or where it occurred; • Sustained the impairment while on active duty status on or after October 1, 2001.
Potentially violent	Hearing office staff may designate the case as critical if there is an indication that the claimant is suicidal, homicidal, or potentially violent.
Terminal illness	The claimant's illness is alleged or identified as terminal (i.e., untreatable, irreversible, and expected to end in death).
Permanently and totally disabled veterans	The claimant has received a 100 percent permanent and total disability compensation rating from the Department of Veterans Affairs.

Source: GAO analysis of Social Security Administration Hearing, Appeals, and Litigation Law Manual section I-2-1-40. | GAO-22-104191

Appendix III: Comments from the Social Security Administration



SOCIAL SECURITY
Office of the Commissioner

May 27, 2022

Elizabeth H. Curda
Director, Education, Workforce, and Income Security
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Director Curda,

Thank you for the opportunity to review the draft report "SOCIAL SECURITY DISABILITY: SSA Expedited Most Critical Cases at Hearings Level but Lacks Consistent Policy Implementation" (GAO-22-104191). We agree with the recommendations.

Please contact me at (410) 965-2611 if I can be of further assistance. Your staff may contact Trae Sommer, Director of the Audit Liaison Staff, at (410) 965-9102.

Sincerely,

A handwritten signature in blue ink that reads "Scott Frey".

Scott Frey
Chief of Staff

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Elizabeth H. Curda, (202) 512-7215 or curdae@gao.gov

Staff Acknowledgments

In addition to the contact named above, Mark Glickman (Assistant Director), Christopher Zbrozek (Analyst in Charge), Jennifer Cook, and Samuel Portnow made key contributions to this report. Also contributing to this report were Alex Galuten, Dana Hopings, Kelsey Kreider, Won Lee, Emei Li, Kathleen McQueeney, Kevin Metcalfe, Mimi Nguyen, Jessica Orr, Stacy Ouellette, Frank Todisco, Walter Vance, Emilie Weisser, Adam Wendel, Ashanta Williams, and Adam Windram.

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