Social Security Advisory Board

February 2012

Aspects of Disability Decision Making: Data and Materials

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Social Security Advisory Board

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Social Security Advisory Board

An independent bipartisan Board created by the Congress and appointed by the President and the Congress to advise the President, the Congress, and the Commissioner of Social Security on matters related to the Social Security and Supplemental Security Income programs.

Aspects of Disability Decision Making: Data and Materials

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Introduction

In January 2001, the Social Security Advisory Board issued the first edition of *Disability Decision Making: Data and Materials*. At that time we had spent over three years studying the question of how the Social Security Administration (SSA) could improve its service to the public. During the course of that study, it became clear that the administration of the agency's disability programs was a primary contributor to SSA's service delivery problems.

Although there had been attempts in the past to shed light on aspects of the disability programs, those attempts were often hampered by the lack of available data to help those outside of SSA understand how the disability programs operate. It was in response to that lack of information that we first assembled this data compendium. We consider such information to be essential to our continuing efforts to help Congress, the President, SSA, and the public to understand and address important issues of policy and public service. That is also why we updated this publication in 2006, and why we are updating it a second time. The need is no less now than it was 10 years ago.

The Social Security Disability Insurance (SSDI) and the Supplemental Security Income (SSI) programs provide essential income support (approximately $163 billion annually) to approximately 15.7 million people with disabilities and their dependents. Administration of the disability programs accounts for about $7 billion, or nearly two-thirds of the agency's administrative budget. And in terms of executive management time and attention, the disability programs consume even more of SSA's resources than these numbers suggest.

Over the past 10 years we have tracked closely SSA's progress as it has worked to improve the disability programs and its disability determination process. Since issuing that first edition of *Disability Decision Making: Data and Materials*, we have released several related reports and issue briefs including:

- *Charting the Future of Social Security's Disability Programs: The Need for Fundamental Change* (January 2001) provided the (then) new administration and Congress with a framework for considering the fundamental changes that we believed were needed. The Board called for a look at whether disability decisions were consistent and whether disability policy was being developed in a coherent fashion. The report also raised the issue of whether the Social Security definition of disability was appropriately aligned with the nation's disability policy.
- *The Social Security Definition of Disability* (October 2003) chronicled the background of the disability programs, how they had changed, and the various attempts to build in work incentives. We concluded that the time had come for the nation to address the contradictions created by the existing definition of disability.
- *Disability Decision Making: Data and Materials* (May 2006) updated the original January 2001 edition of this publication. We believed that more work was needed to improve the disability process and adjudicative standards, and we wanted to assist policymakers, stakeholders, and the general public gain a fuller understanding of how SSA's disability programs were being administered, and of the major problems inherent in the disability process.
- *Statement on the Supplemental Security Income Program: Transition from Childhood to Adulthood* (May 2006) focused on the need to strengthen national policies for youth with disabilities.
- *A Disability System for the 21st Century* (September 2006) was based on a three-year review of the nation's approach to disability, building on our 2003 report, *The Social Security Definition of Disability*. It reinforced our concern that the Social Security definition of disability, based on the inability to work, was inconsistent with the goals of the *Americans with Disabilities Act*. We presented general models for a more appropriate structure, and a goal and vision of a 21st Century approach to a new disability system.
- *Improving the Social Security Administration's Hearing Process* (September 2006) examined SSA's hearing process and outlined our concerns about the lack of decisional consistency, processing times and backlogs, productivity, hearing office management, and the SSA's relationship with its administrative law judges.
- *Disability Programs for the 21st Century: Substantial Gainful Activity* (April 2009) addressed the need to make the disability programs more work-oriented and easier to administer.
- *Social Security: Why Action Should be Taken Soon* (December 2011, 4th ed.) noted, among other things, the increasingly fragile condition of the Disability Insurance Trust Fund and listed a

couple of policy options to begin to address that problem.

Together these reports describe, in great detail, our continuing, serious concerns about the disability programs, both in terms of their fundamental nature and their administration. These include concerns regarding:

- the longstanding lack of consistency in the disability determination process that may award benefits to individuals who do not meet the SSA disability criteria and deny benefits to individuals who do meet the criteria;
- the large gap between disability policy ideals and administrative feasibility;
- the need for ongoing, in-depth assessment of the disability decision making process;
- the progress being made on an agency-wide quality assurance management system that produces the real-time analysis SSA must have to ensure consistent and accurate disability decision making;
- the need for fundamental, structural reform necessary for SSA to meet its disability program challenges;
- work incentive policies that do not provide sufficient assistance and incentives for employment;
- the need to determine how best to encourage rehabilitation and employment;
- a fundamental definition of disability that appears to be at odds with the *Americans With Disabilities Act*, that is "to assure equality of opportunity, full participation, independent living, and economic self-sufficiency" for individuals with disabilities;
- continued reliance on medical labels rather than functional criteria to determine both disability and ability; and
- the use of the grossly outdated *Dictionary of Occupational Titles* to determine a claimant's ability to perform work available in the national economy.

Clearly, SSA shares these concerns. The agency has, over the years, implemented a series of initiatives that were intended to improve the disability decision making process or related aspects of program administration, including:

- In 1994, SSA developed *A Plan for a New Disability Claim Process*, better known as "Disability Redesign." This plan included over 80 initiatives that were to be implemented over a six year time span. It was expected to reduce case processing time and cost. By 1997, however, the agency had abandoned most of the initiatives and decided to focus on a smaller number of projects. Most of these projects were terminated by late 2001 but a "prototype" process that was tested as part of Disability Redesign continues in 10 States.
- In 2000, the *Hearings Process Improvement* (HPI) initiative was implemented. HPI was intended to improve the efficiency of the hearings and appeals process by reducing hand-offs, streamlining processes, and improving accountability and service delivery. Despite later modifications to the plan, it did not succeed, and hearing office performance actually declined. Most aspects of the initiative were abandoned by 2002.
- In 2006, SSA began implementing a "new approach" to disability claims adjudication. The *Disability Service Improvement* (DSI) plan was intended to improve the accuracy, consistency, and timeliness of case adjudication. Changes included a Quick Disability Determination (QDD) process at the initial claims level; changes to the reconsideration step of the appeals process; establishment of a Medical and Vocational Expert System; several changes to the hearings and appeals process; and elimination of the Appeals Council review step. The new approach was first implemented in SSA's Boston region. One part of the plan, the QDD process, proved effective and was rolled out nationally in 2007, but other features of DSI were gradually abandoned. In 2011, SSA terminated most of the remaining initiatives.

Despite these well-intentioned, bold initiatives, significant and sustained progress has remained elusive. Since terminating most of the DSI initiatives, SSA has changed its approach to focus on making improvements through incremental process and management changes, instead of attempting major program changes. More recent key initiatives include expanded use of electronic medical records and a common Disability Case Processing System; a new electronic claims analysis tool; hiring new adjudicators; and several new quality assurance initiatives that include establishing a Division of Quality within the Appeals Council, and eliminating inconsistent region-specific State disability determination agency quality reviews in favor of a national program.

In May 2007, SSA announced its *Plan to Eliminate the Hearing Backlog and Prevent Its Recurrence*. The plan focused on improving hearing office procedures, increasing adjudicatory capacity, and increasing efficiency with automation and improved business processes. Specifically, the agency urged all ALJs to issue 500 to 700 legally sufficient decisions each year as part of the backlog reduction effort. Since the plan was implemented, the productivity of ALJs has increased (without any significant change in the allowance and denial

rates), and the average time to process a hearing request has been reduced from 532 days to 340 days. Also, an important aspect of the hearing backlog reduction plan was the implementation of a new screening tool that identifies unusual diagnoses that are often missed in earlier steps in the adjudication process.

In 2008, SSA implemented the Compassionate Allowance process which is designed to expedite disability decisions for applicants with specific medical conditions so severe that they obviously meet SSA's disability standard. The program started with a list of 50 medical conditions, and has gradually expanded to over 100. These conditions are not specifically named or described in the more general medical listings that SSA/DDS have historically used to determine eligibility. By screening for these conditions, time is saved for the adjudicators, and claimants who definitely meet SSA's disability criteria receive their benefits sooner. By 2011, SSA was processing over 130,000 cases annually under the initiative, usually making the initial allowance decision in less than two weeks.

The data provided in this new update of *Disability Decision Making: Data and Materials* provide some indications that the more recent initiatives are having a positive effect. Both initial claims processing time and hearings processing time have improved, and the hearings backlog has declined significantly. The wide variation in State-to-State allowance rates has narrowed somewhat. But, the improvements are small, and it remains to be seen whether they will have lasting impact. At the same time, these updated data continue to highlight significant questions about SSA's disability decision making process and about the disability programs, such as:

Applications. Much has changed over the past decade, especially since the last edition of this report was published in 2006. For one thing, the number of SSDI and SSI disability applications has risen (see **Charts 1a** and **1b**). There are a number of possible explanations for this, not least of which is the prolonged downturn in the economy. With the continued existence of widespread unemployment, less skilled workers, often with some work limitation or full-fledged disability, have had a harder time finding and keeping jobs. Some of these people are likely to turn to SSDI or the SSI disability program as a "last resort." Social and demographic changes also contributed to the increase in SSDI and SSI application rates. More women are in the workforce today and have attained insured status for the program making them eligible for benefits. There has been a noticeable increase in the prevalence of disability at younger ages. In addition, the baby-boom generation, individuals born between 1946 and 1964, are now entering their most disability prone years when the criteria for accessing disability benefits are eased considerably. These trends have had a huge impact on both the retirement and disability systems. In addition to these trends, recent research cites other reasons for the increase in the SSDI rolls, such as the increase in the full retirement ages (which makes SSDI benefits more generous than early retirement at age 62), rising replacement rates due to declining wages among the less skilled, and the program's increased sensitivity to economic conditions.[1]

Processing Times/Backlog Situation. We have seen variations in case processing times since the two earlier publications of *Disability Decision Making: Data and Materials* were released. The average initial claims processing time, from the time of application to the date of decision, had been decreasing since 2004 for SSI cases and since 2005 for SSDI cases but began to increase again in 2010 as the volume of filed claims climbed (see **Chart 59**). At the hearing level, however, processing times rose from 2000 to 2008, but began to fall in 2009 and 2010 (see **Chart 61**). Average processing time for a request for review at the Appeals Council level was 345 days in 2010, the highest level since 2003 (see **Chart 63**).

Since the late 1990s, the backlog of pending cases within SSA has generally risen. The number of SSDI and SSI disability applications pending at State Disability Determination Services has increased sharply since 2008 due to worsening economic conditions. In fact, by the end of fiscal year 2008 there were approximately 557,000 applications pending at the initial level; by 2010 that number had risen to 842,000 (see **Chart 60**). Cases pending at the hearing level generally rose every year since 2000 until falling again in 2009. In 2008 there were 761,000 hearings pending; in 2009 there were 723,000 pending, and by 2010 there were only 705,000 hearings pending (see **Chart 62**).

SSA has made some progress in addressing its disability program challenges, although much recent progress was overwhelmed by the large increase in applications due to the recent recession. The challenges will likely continue, and even increase over the coming years if the applicant and

[1] Autor, David H. and Mark G. Duggan. "The Growth in the Social Security Disability Rolls: A Fiscal Crisis Unfolding." *Journal of Economic Perspectives*, American Economic Associations, vol. 20(3), pp. 71-96, Summer 2006.

beneficiary populations continue to grow at the same time that administrative budgets remain tight. The agency is very likely going to have to do more with less, which will require progress in modernizing systems and introducing more efficient claims processing and adjudication procedures. Growing workloads will make it increasingly important for SSA to have clear and workable program policies, as well as sound and perhaps simplified administrative rules and guidelines.

Improving the operation efficiency of the agency will require SSA to make better use of the administrative and management data it already collects and to invest in more data and/or better analysis where necessary. This will require sharing more of its data and analysis, not only internally but also with those experts outside of the agency. The public use files that are now available on SSA's Internet site are a positive step. Future research supported by the agency should be aimed at providing a better understanding of the factors that influence the dynamics of the disability rolls.

As a result of the rapid growth of the program, the SSA actuaries project that the DI trust fund will likely be exhausted and only be able to pay about 86 percent of scheduled benefits in as little as four or five years. Some public policy changes will be required in the near term to keep the program on a sound financial footing well into the future. The agency, therefore, should develop an agenda that will help provide the information and insights necessary to allow policy makers to design and implement urgently needed administrative and public policy reforms.

Acknowledgements

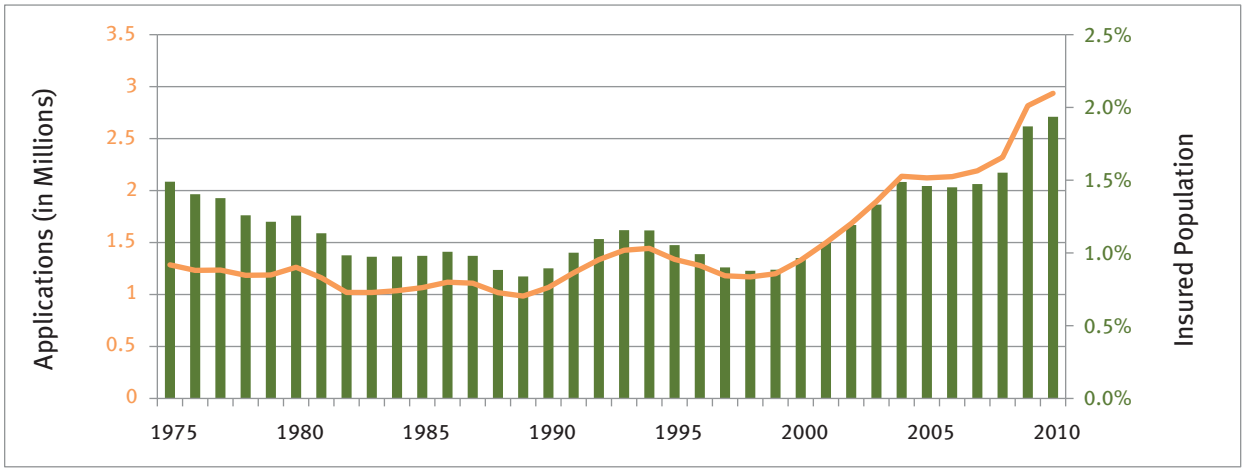
This third edition of *Disability Decision Making: Data and Materials* is the result of a collaboration among the staff of the Social Security Advisory Board, staff members of the Social Security Administration, and other program experts. In particular, we thank Patricia Martin, Barry Eigen, Art Spencer, and Jeff Blair of SSA for providing data and helping to interpret the effects of disability litigation and a number of disability program changes. Also, David K. Barnes provided valuable comments and editing on draft documents.

I. Data Relating to Disability Program Operations

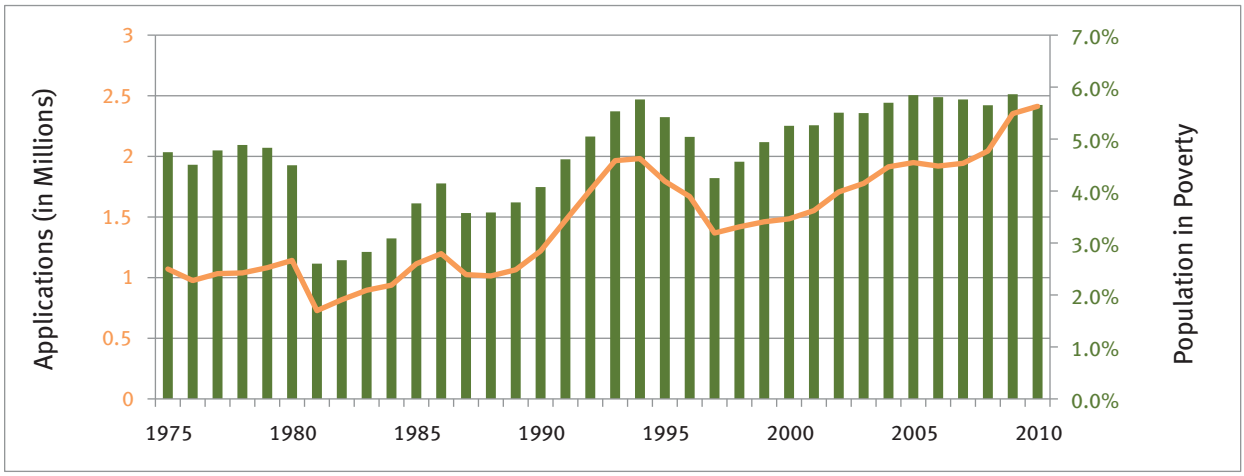
A. Applications

1. Disability Insurance and Supplemental Security Income Disability Applications—Calendar Years 1975 to 2010

1a. SSDI Applications, 1975-2010



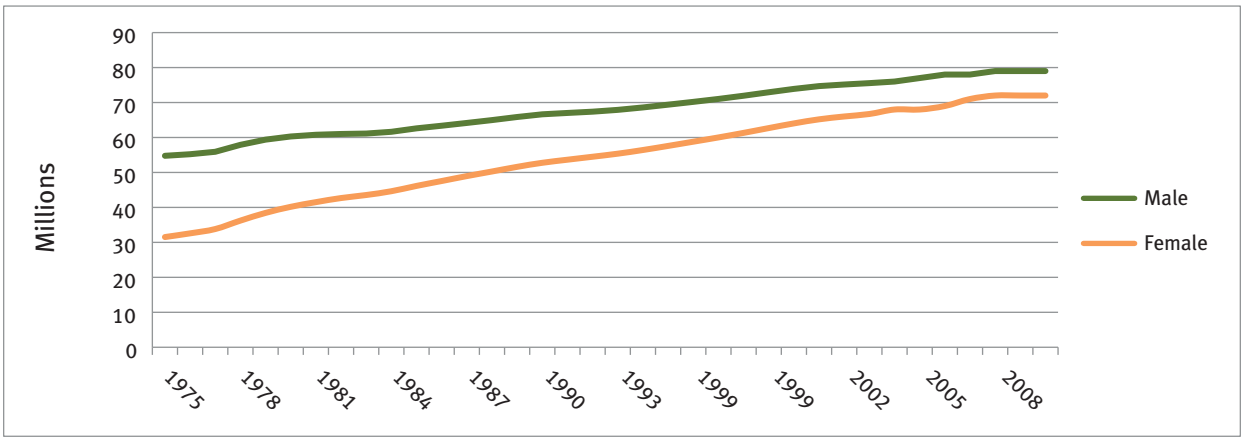
1b. SSI Disability Applications, 1975-2010



The number of DI applications was fairly level from 1975 to 1990, but declined as a share of those insured because the rapid increase in women's labor force participation increased the ranks of those insured. DI applications, in numbers and as a share of those insured increased in the early 1990s, then subsided beginning in 1995. They surged again between 1999 and 2005, and after leveling off for several years grew dramatically after 2008 largely due to the recent economic recession. SSI applications increased faster than DI applications from the early 1980s though the early 1990s. The sharp spike after 1990 was due to the Supreme Court's 1990 *Zebley* decision which made the criteria for determining disability for children less strict and more comparable to the standards used for determining disability for adults. The 1996 *Personal Responsibility and Work Opportunity Act* modified the impact of the *Zebley* decision and made other changes. SSI applications declined sharply from 1995 to 1997 but began to increase again in 1998. Although the total number of SSI disability applications has also increased since the recession, there has been no noticeable increase in applications as a percent of the population in poverty. Numbers of applications for DI and SSI are not additive because some applicants apply for benefits under both programs.

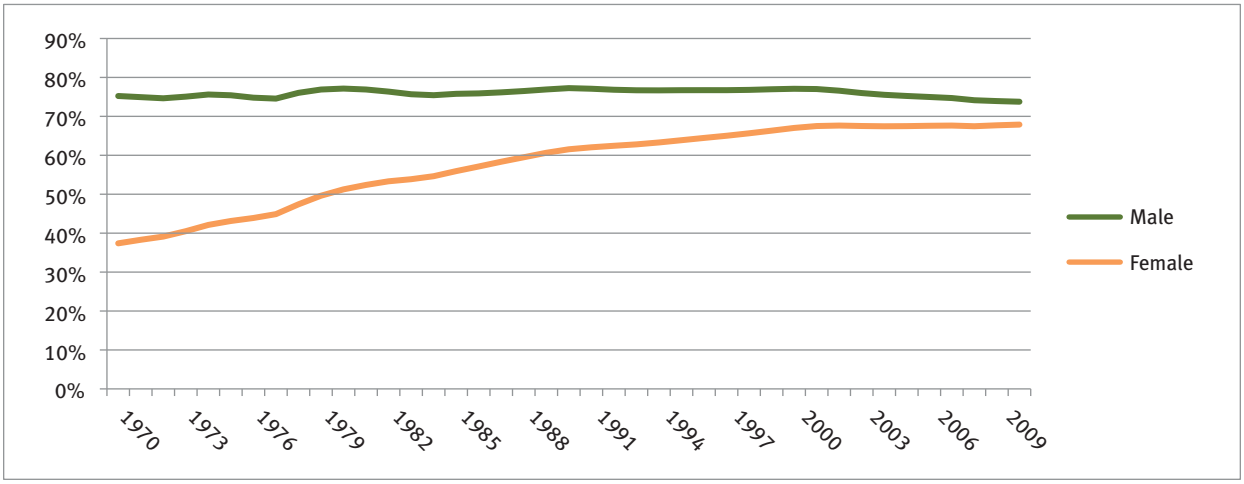
2. Workers Insured for Disability Benefits, by Gender—Calendar Years 1975-2010

2a. Number of Workers Insured for Disability, 1975-2010



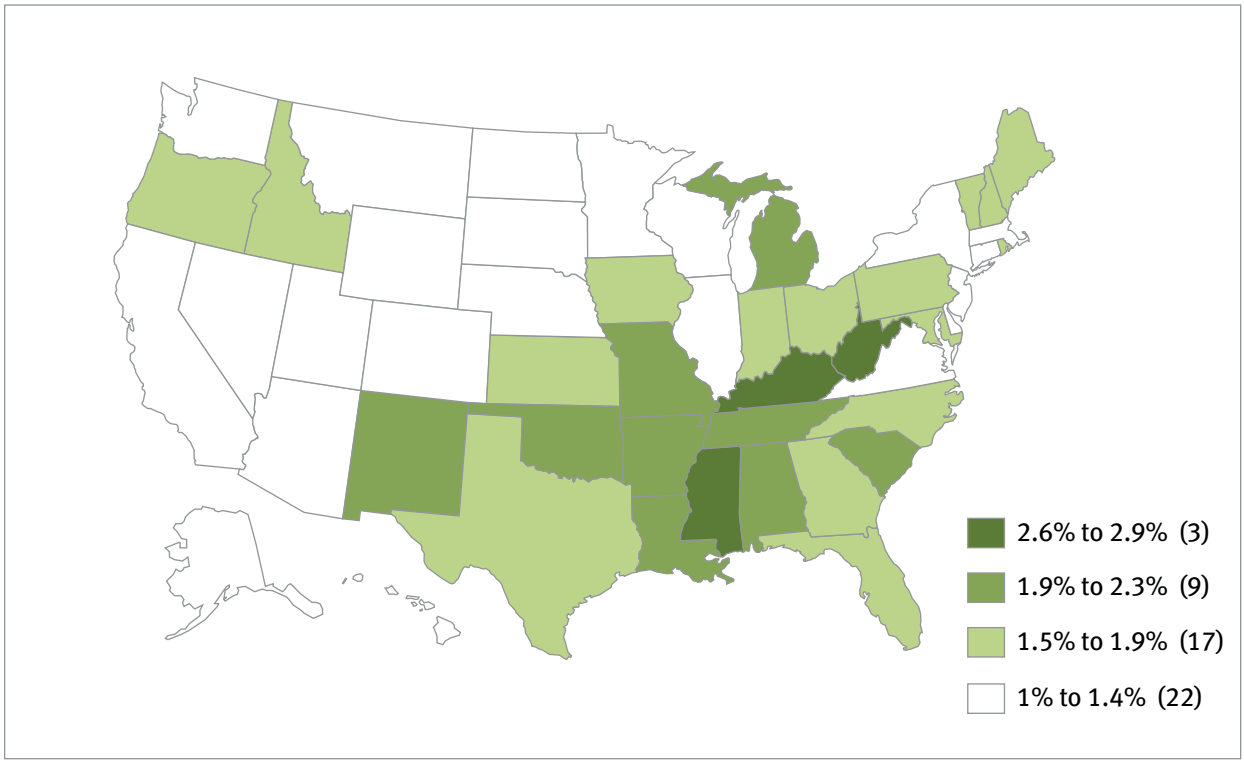
The overall number of workers insured for disability benefits went from just over 85 million in 1975 to approximately 151 million by 2010, representing a 78 percent increase. The number of insured men went from almost 55 million in 1975 to about 79 million in 2010, an increase of 45 percent. The number of insured women saw the largest growth in this category, going from 31.5 million in 1975 to 72 million by 2010 – an increase of 129 percent. Women were 37 percent of the insured population in 1975; by 2010, they made up 48 percent of the insured population.

2b. Percent of Population Insured for Disability, 1970-2010



While the raw numbers demonstrate an obvious increase in disability insured status for both men and women, a slightly different story can be told when one looks at it in percentage terms. For example, the percentage of working age men insured for disability has remained relatively flat since 1970, and has actually slightly decreased over the past few years. The percentage of working age women insured for disability has generally increased over the years, but actually began to level off around the year 2000.

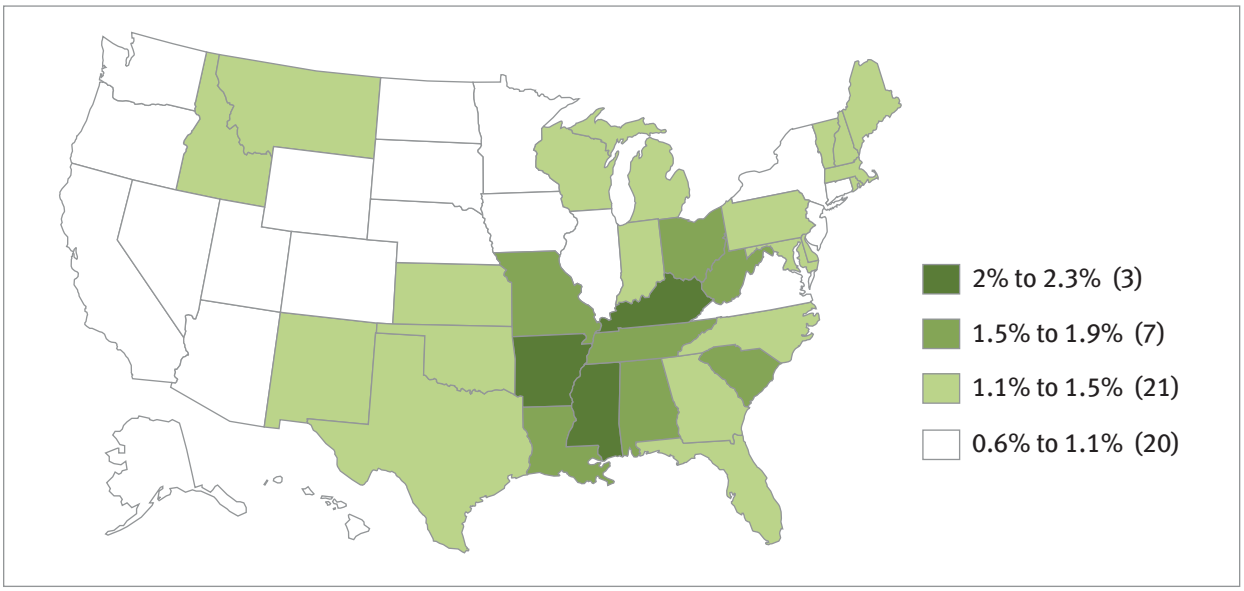
3. Disability Insurance Application Rates by State as a Percentage of State Population Ages 18-64—Calendar Year 2010



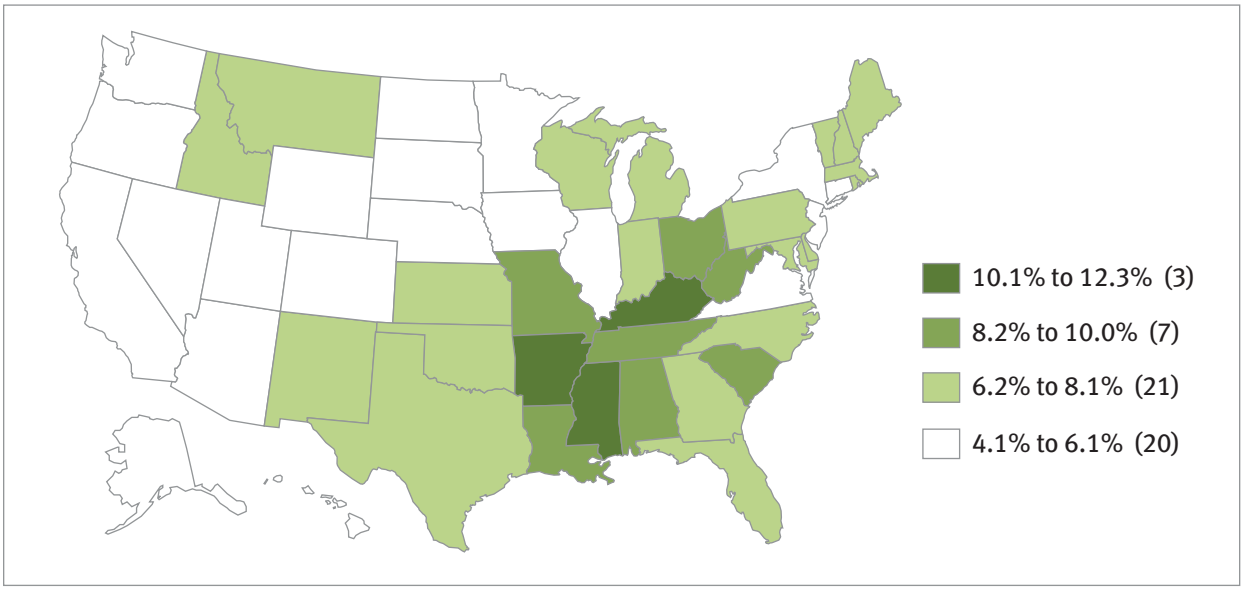
DI application rates (benefit applications received at the State agencies as a percentage of total State population ages 18 through 64) in 2010 ranged from 1 percent in Utah, South Dakota, and Hawaii to 2.8 percent in Mississippi. Though not shown on this map, Puerto Rico is also included in the data set and had a 1.3 percent DI application rate in 2010.

4. SSI Adult Disability Application Rates by State—Calendar Year 2010

4a. SSI Adult Disability Application Rates as a Percentage of State Population ages 18-64, 2010



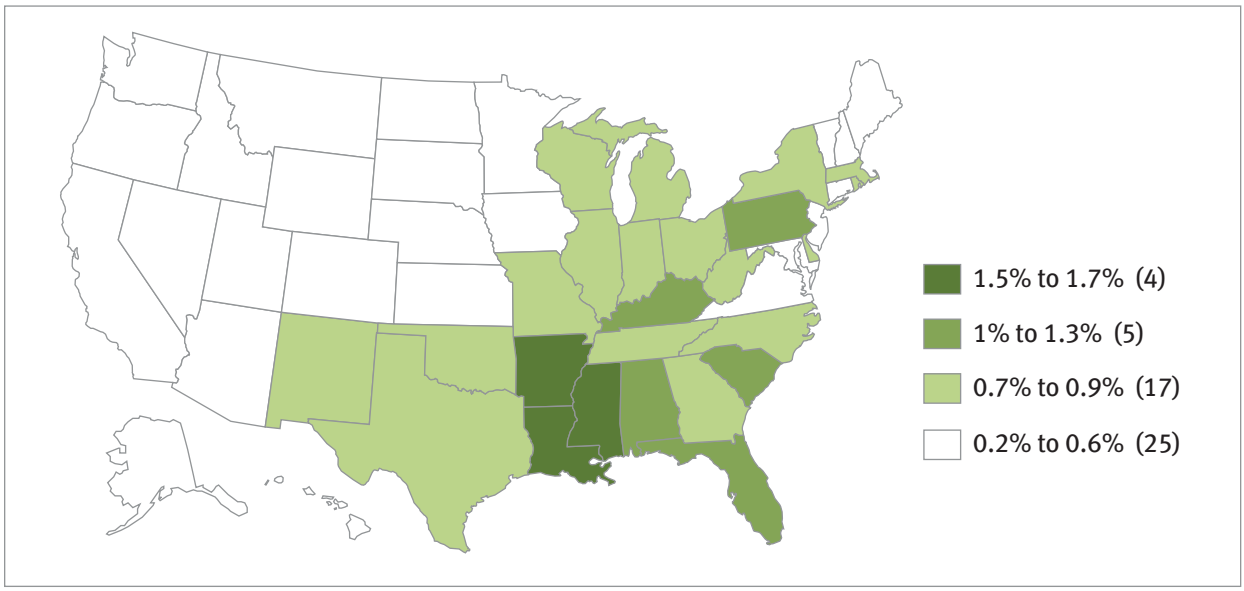
4b. SSI Adult Disability Application Rates as a Percentage of State Population ages 18-64 below 125% of the Poverty Level, 2010



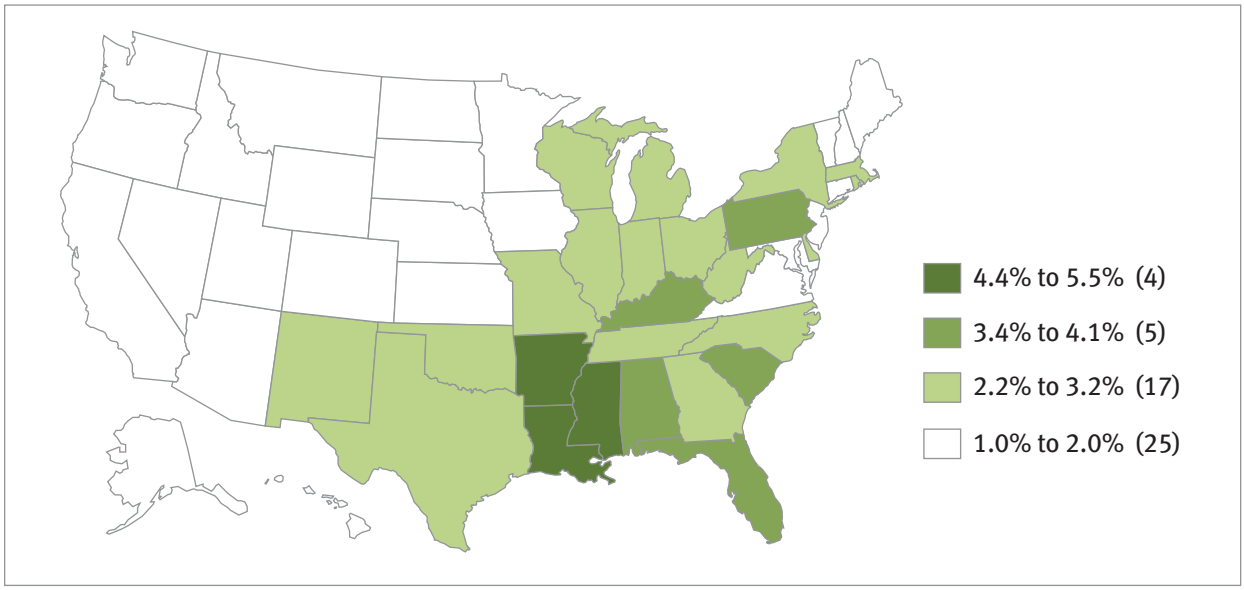
As a percentage of State population ages 18 through 64, SSI adult application rates in 2010 ranged from 0.6 percent in Utah to 2.3 percent in Mississippi. As a percentage of State population 18 through 64 under 125 percent of the poverty level, SSI adult application rates ranged from 4.1 percent in Arizona to 12.3 percent in New Hampshire.

5. SSI Child Disability Application Rates by State—Calendar Year 2010

5a. SSI Child Disability Application Rates as a Percentage of State Population under age 18, 2010

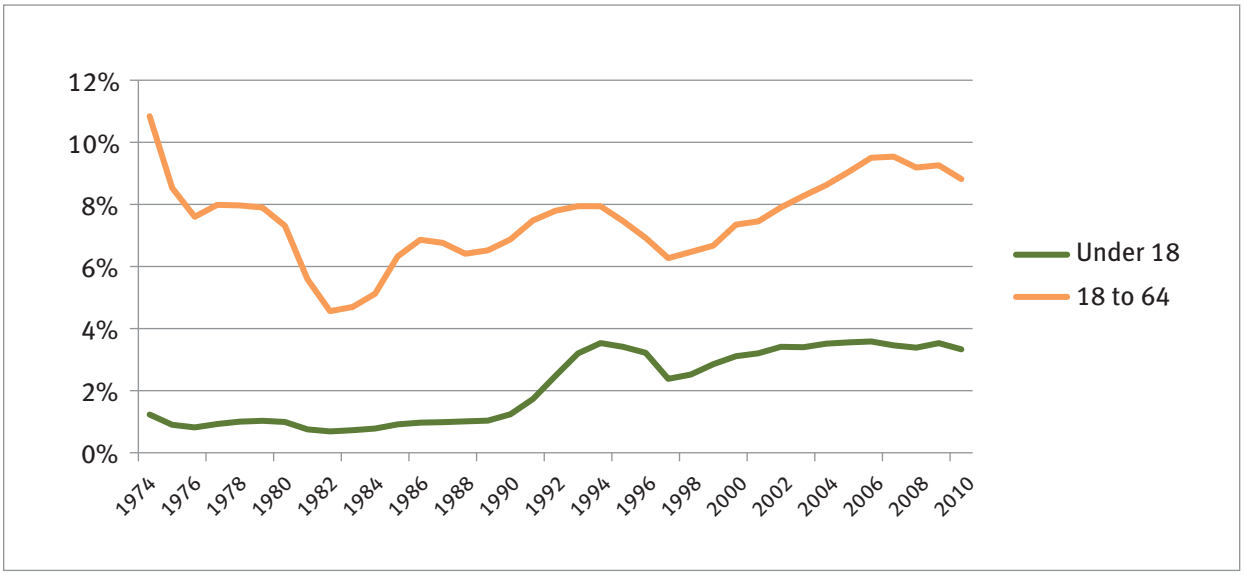


5b. SSI Child Disability Application Rates as a Percentage of State Population aged 18-64 below 125% of the Poverty Level, 2010



As a percentage of State population under age 18, SSI child application rates in 2010 ranged from 0.2 percent in Utah and Hawaii to 1.7 percent in Arkansas. As a percentage of State population under age 18 below 125 percent of the poverty level, SSI child application rates ranged from 1 percent in Hawaii to 5.5 percent in Arkansas.

6. Percent of Population in Poverty Applying for SSI, by Age Group—Calendar Years 1974-2010

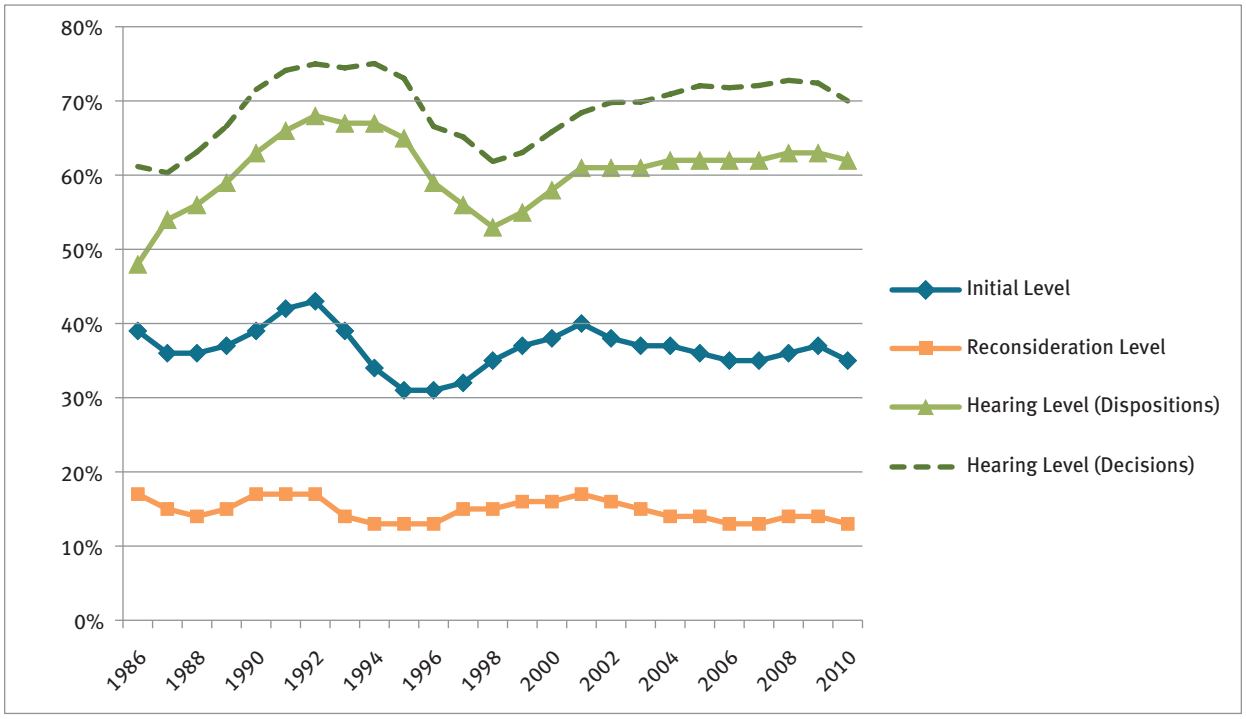


From 1975 through 1989, the number of children under age 18 applying for SSI equaled 1 percent or less of children in poverty. That percentage began a sharp increase in 1990, the year of the *Zebley* decision (see **Chart 1**), and reached 3.5 percent in 1994 before beginning to decline. It did not decline to its pre-1990 levels, however, falling only to 2.4 percent in 1997 before beginning to rise again. Since 2002, it has been at or near the 3.5 percent level it had reached in 1994.

The number of adults ages 18 to 64 applying for SSI as a percentage of adults in poverty fell from an initial high of 10.8 percent in 1974, when the program began, to 4.6 percent in 1982 before beginning to rise again. Since 2005, it has been at 9 percent or higher.

B. Allowances

7. Combined DI and SSI Allowance Rates at Each Level of Adjudication—Fiscal Years 1986-2010



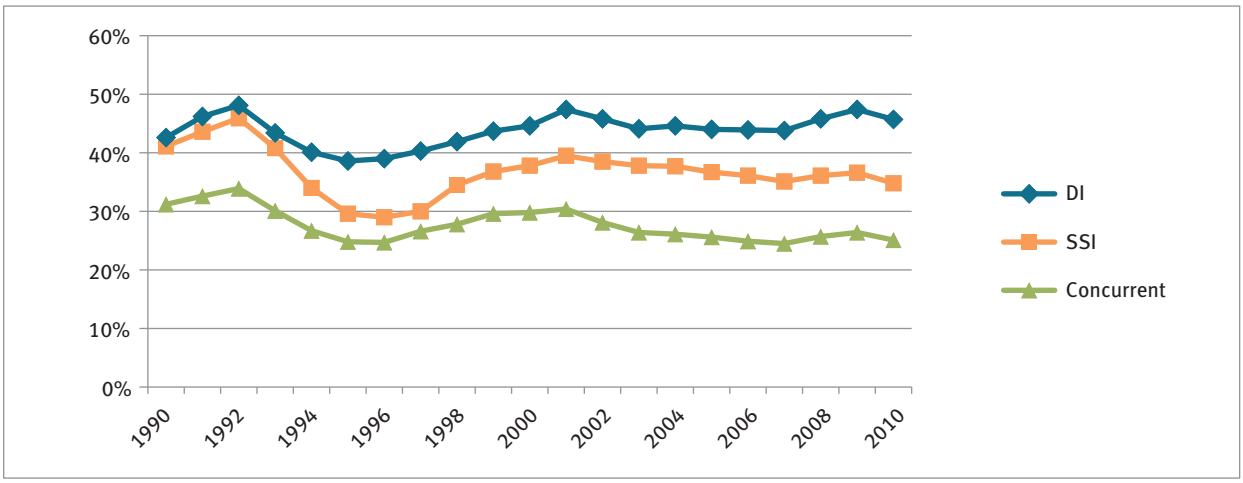
In the last 25 years, the percentage of claims adjudicated at the hearing level that are allowed has been considerably higher than the percentage allowed by the State agencies at the initial level. The allowance rates for both levels have shown large variations, sometimes moving in tandem, sometimes not. The *Process Unification Rulings* of 1996, that provided adjudicators at every level of the process with the same decision-making standards, could explain why the hearing level and initial level gap narrowed slightly between 1996 and 1998.

The allowance rate at the hearing level includes all forms of Social Security and SSI cases reaching the hearing level, but the vast majority involves disability issues. It also includes decisions by ALJs and for some years, senior attorneys. (Senior attorneys did not adjudicate cases in all years shown in the charts.) The solid green line shows allowance rates as a percentage of dispositions. These allowance rates include dismissals; i.e., cases disposed of without a hearing, usually because the claimant's request for a hearing was not filed timely or the claimant did not appear for the hearing. The dotted green line, on the other hand, shows allowance rates as a percentage of decisions, which excludes dismissals.

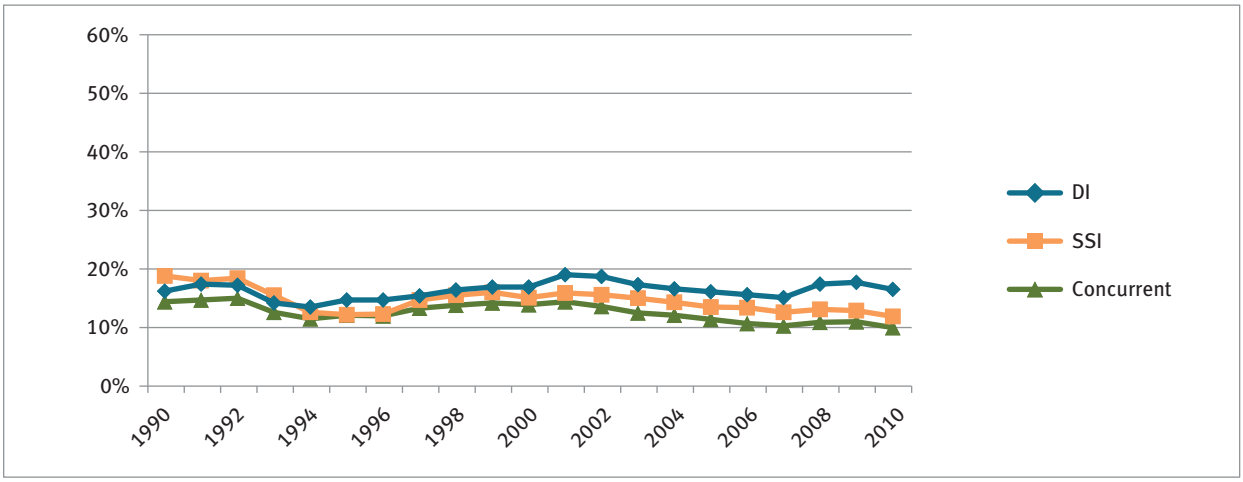
Note: Although the allowance rate is higher at the hearing level, the number of claims allowed is higher at the State agency level, as **Chart 12** shows.

8. State Agency Allowance Rates—Fiscal Years 1990-2010

8a. Allowance Rates for Initial Claims, 1990-2010



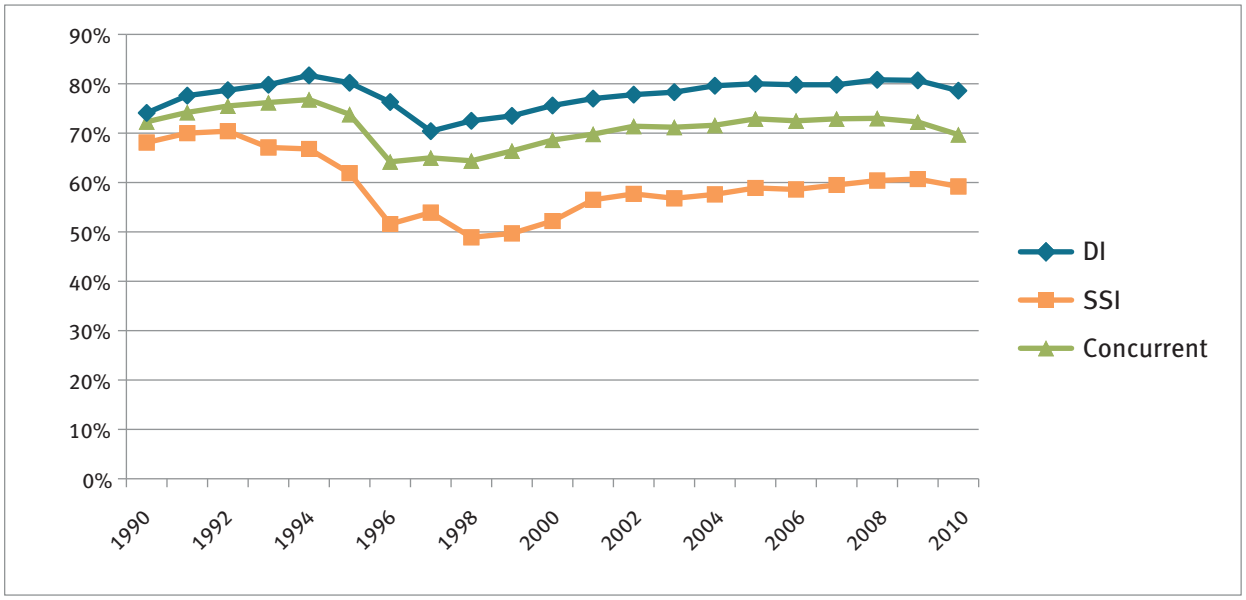
8b. Allowance Rates for Reconsiderations, 1990-2010



The percentage of DI, SSI, and concurrent applications allowed by State agencies at the initial and reconsideration levels grew between 1996 and 2001. The increase in allowance rates at these levels during this period has been attributed to a number of factors, including the impact of the 1996 *Process Unification Rulings*, policy clarification and changes, and extensive training for SSA adjudicators on impairments affecting children. After a period of declining allowance rates, by 2009 DI allowance rates returned to the level they had reached in 2001, but began to decline again in 2010.

SSA introduced a revised process known as the "prototype" in fiscal year 2000 in 10 States, under which initial denials could be appealed directly to the hearing level without having to go through the usual next step of reconsideration. This could account for the decline in allowance rates for reconsiderations after 2000.

9. Hearing Decision Allowance Rates—Fiscal Years 1990-2010

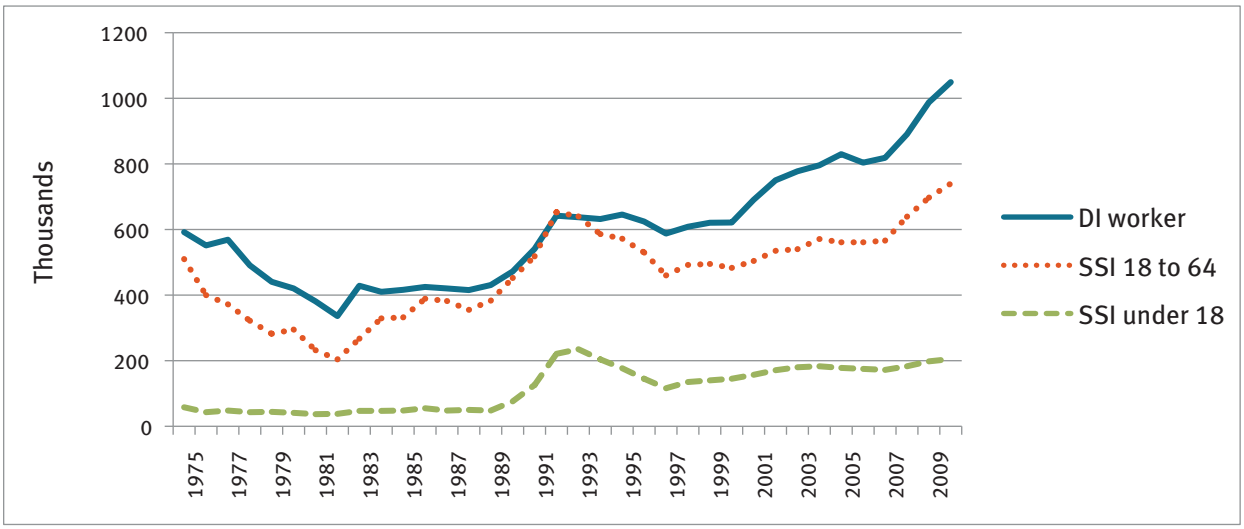


ALJ hearing decision allowance rates fell in the period 1995 to 1998, but they have generally risen steadily since that time. Allowance rates for SSI claimants have consistently been lower than for DI claimants. The rates shown here are the percentage of hearing decisions, excluding dismissals.

In 1996, SSA issued a set of nine Social Security Rulings that dealt with issues such as the weight to be given to treating source opinions and other medical opinions, the evaluation of pain and other symptoms, the assessment of credibility and residual functional capacity, and the application of Federal court decisions. These Rulings, which are binding at all levels of adjudication, may account for the increase in allowance rates in the late 1990s.

10. Disability Awards—Calendar Years 1975-2010

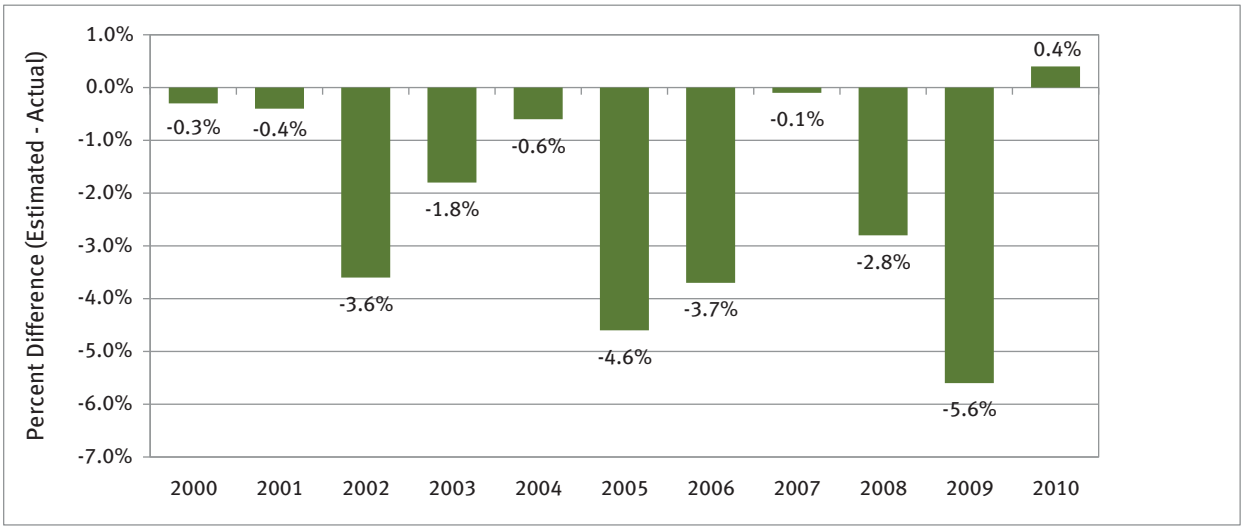
10a. Number of Disability Awards for DI and SSI, 1975-2010



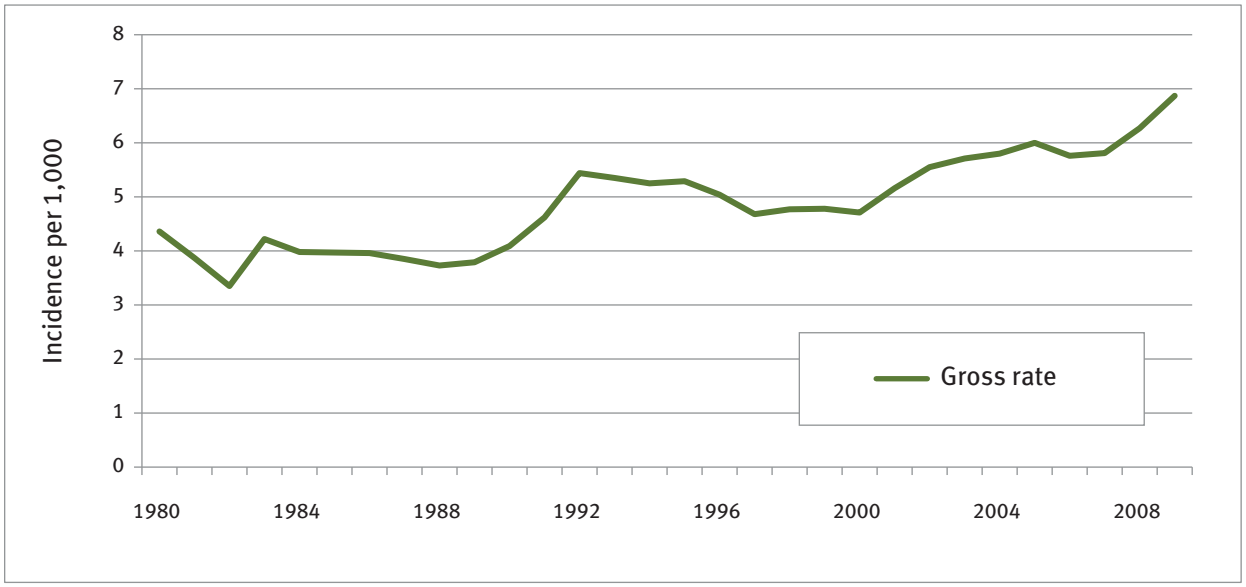
The number of DI worker and SSI disability awards has increased greatly since 1982. SSA issued a set of Social Security Rulings at that time which provided guidance for the first time on a range of complex adjudication issues. In 1985, a major revision to the mental impairment listings was published. Some of the increase in awards may be attributed to these policy clarifications and changes.

Awards declined slightly in the mid-1990s but have risen since then, increasing sharply for adult categories since 2008. This increase in awards corresponds to the increase in the number of applications filed for those years (see **Chart 1a** and **1b**) and can be at least partially ascribed to the economic recession that began in 2007 and to the aging baby boomers, but is consistently in excess of the projections contained in the Trustees Report, as **Chart 10b** indicates below.

10b. Percent Difference between Actual DI Expenditures and Estimates in Prior Year's Trustees Report, 2000-2010



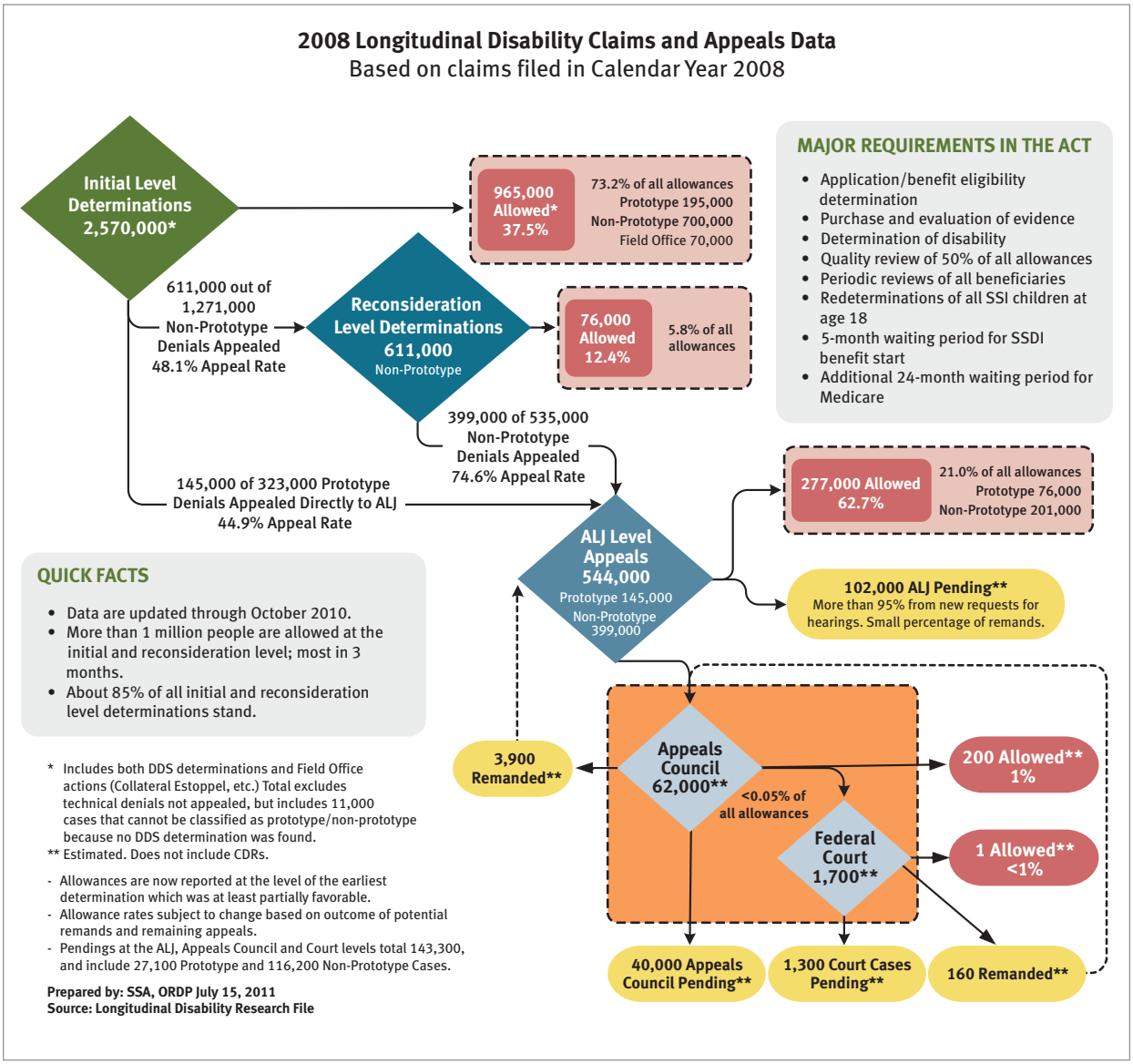
11. Incidence Rates for DI Worker Benefits—Calendar Years 1980-2009



The incidence rate is the ratio of the number of awards in a year to the average number of disability insured workers who are not receiving benefits. The incidence rate is a common indicator of the status of the disability system. This chart shows the gross incidence rate for DI benefits. The DI gross incidence rate stood at 4.4 per thousand in 1980 and fell to a low of 3.4 per thousand in 1982. It rose again to 5.4 per thousand in 1992 and fell to 4.7 in 1997. Since then, it has risen to its highest level at 6.9 per thousand in 2009.

The factors accounting for the upward trend over the years include demographic changes, policy changes, and the changing cycles of unemployment that have occurred over the years. These factors are discussed in further detail in the Introduction (see **page 3**).

12. Outcomes of Claims—Filed in 2008

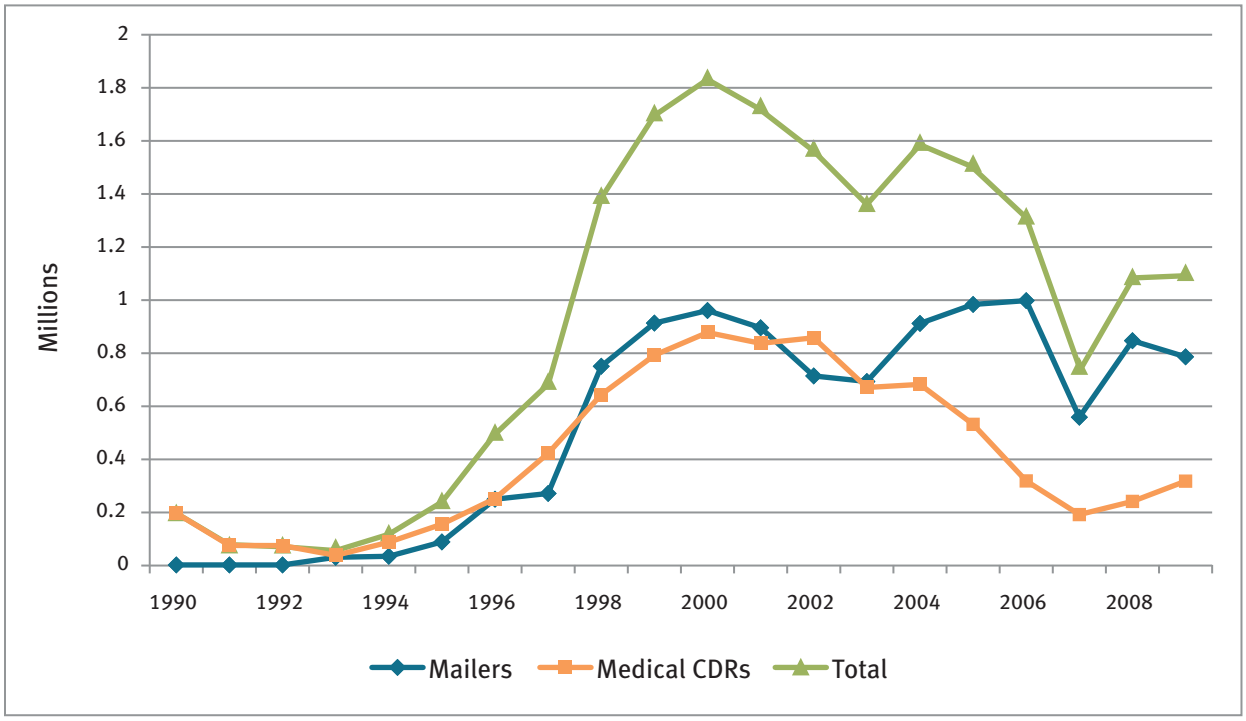


This chart prepared by SSA shows the outcomes of disability applications filed in 2008, the most recent year for which nearly complete data are available. There were 965,000 disability applications allowed at the initial determination level with an additional 76,000 disability applications allowed after being reconsidered at the State agencies. The State agencies thus accounted for 79 percent of all allowances of claims filed in 2008.

About 1,041,000 claims were allowed at the initial and reconsideration levels, which was about 41 percent of all disability applications. The allowance rate was higher at the hearing level (63 percent), but because of the smaller volume of cases at that level, it accounts for only 21 percent of all allowances.

C. Continuing Disability Reviews

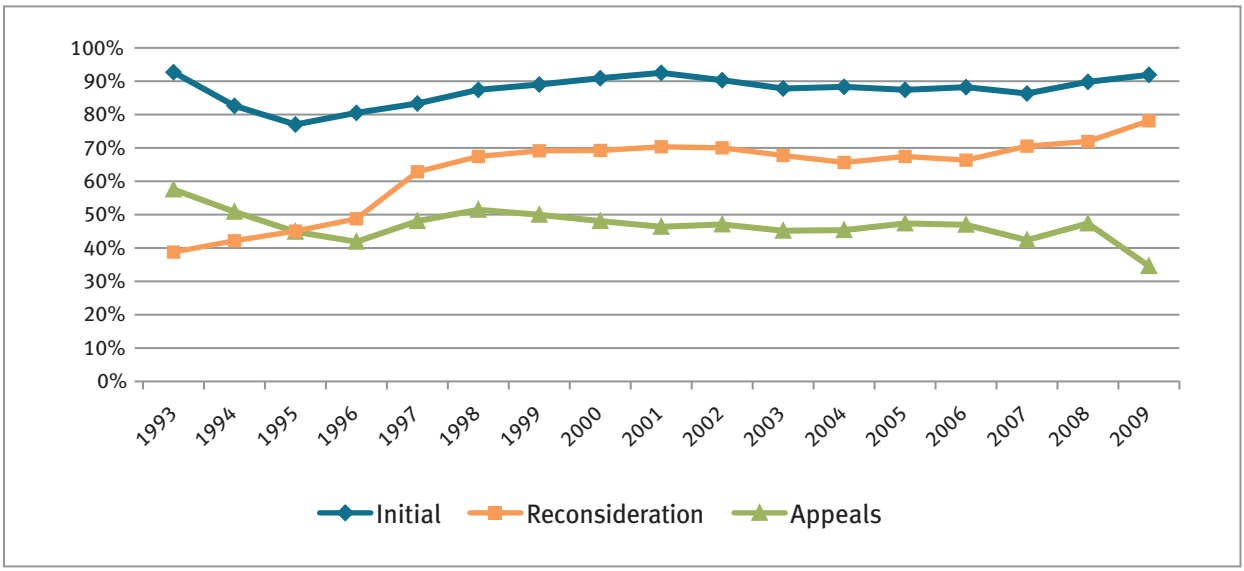
13. Number of CDRs Processed—Fiscal Years 1990-2009



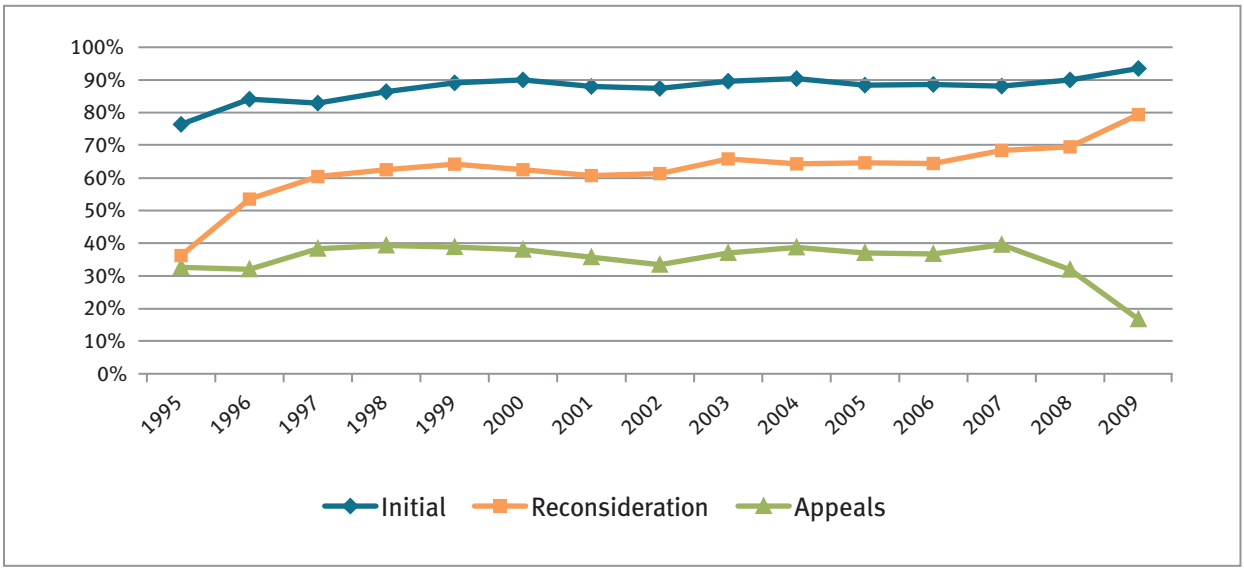
Continuing Disability Reviews (CDRs) are conducted for both DI and SSI beneficiaries on a periodic basis to determine if their disabling condition has improved and if they are still eligible for benefits. SSA uses statistical profiling to identify beneficiaries' probability of medical improvement; those with higher probability are scheduled for medical CDRs. Field offices contact these beneficiaries and ask them to provide updated information on their conditions and their treatment sources. The field offices then send the cases to a State agency for a decision. Beneficiaries with a lower probability of medical improvement are sent mailers with questions designed to raise issues of medical improvement. Beneficiaries send their responses to the mailer to a data operations center where they are reviewed. If the answers to a mailer indicate that medical improvement may have occurred, the beneficiary is scheduled for a full medical CDR.

14. Medical CDR Continuation Rates by Decision Level and Year of Initial Decision

14a. SSDI and SSDI/SSI Beneficiaries, 1993-2009



14b. SSI Disabled Adult Recipients, 1995-2009

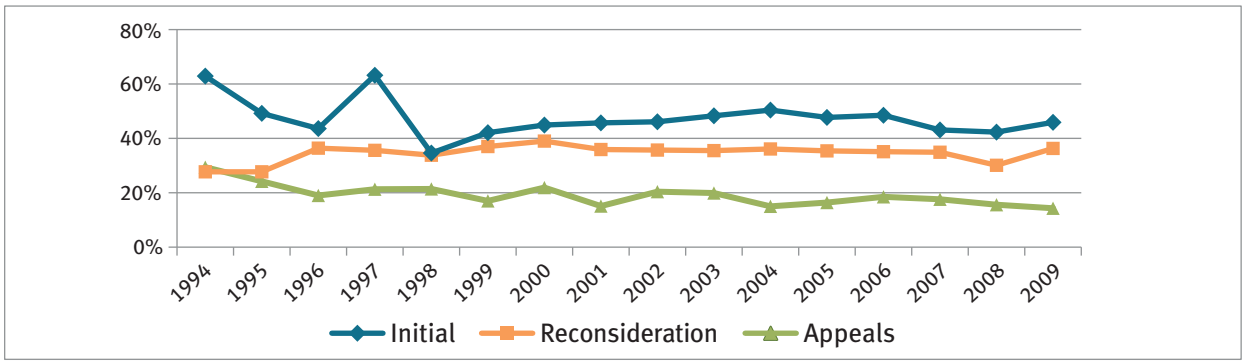


Continuation rates for medical CDRs vary somewhat by program, but the continuance rate at the initial level is high. Beneficiaries who receive an unfavorable decision at the initial level may request reconsideration. The decision at this level is made by a hearing officer at the State agency who may hold a face-to-face hearing with the beneficiary. Beneficiaries who receive an unfavorable decision from a hearing officer may request a hearing before an administrative law judge. The "Appeals" category on these charts includes cases appealed beyond the reconsideration level, but exclude Federal Court cases.

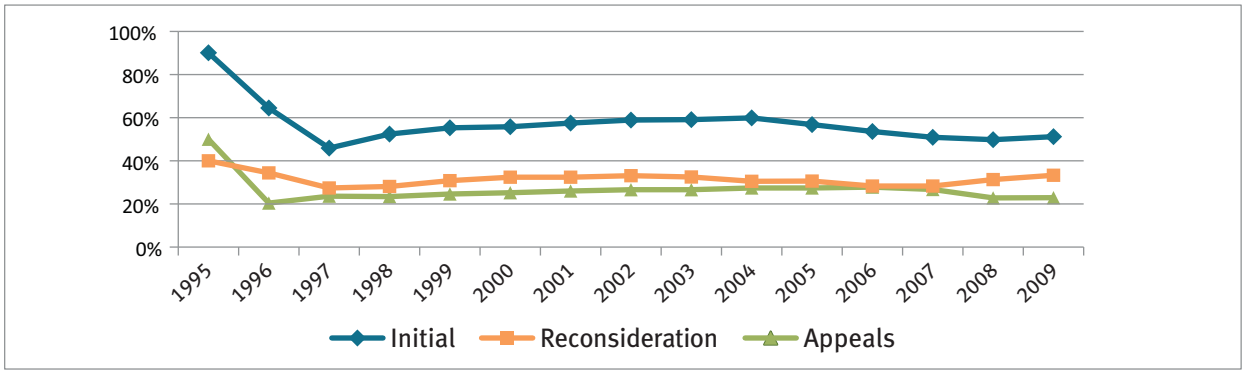
The charts show continuation rates at each level of review with an initial decision in the year shown; e.g., the "Appeals" figure for 1995 shows continuation rates for cases with an initial decision in 1995, even if the appeal decision was rendered in a later year. Data on the charts reflect results as of February 2010 and are subject to change until all appeals are final. Concurrent DI-SSI beneficiaries are included in the DI chart. The SSI chart shows SSI-only beneficiaries.

15. Medical CDR Continuation Rates for SSI Children by Decision Level and Year of Initial Decision

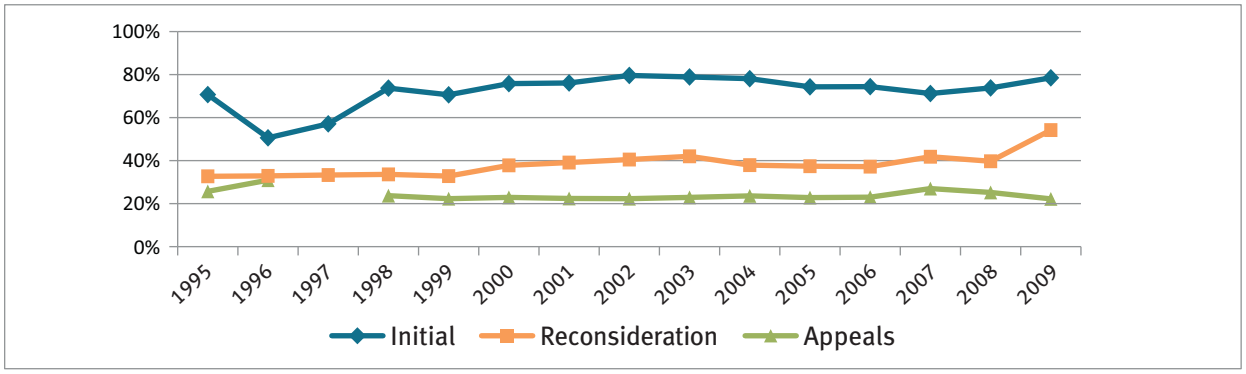
15a. Low Birth Weight Children, 1994-2009



15b. Age-18 Redeterminations, 1995-2009



15c. All Other Medical Continuing Disability Reviews, 1995-2009

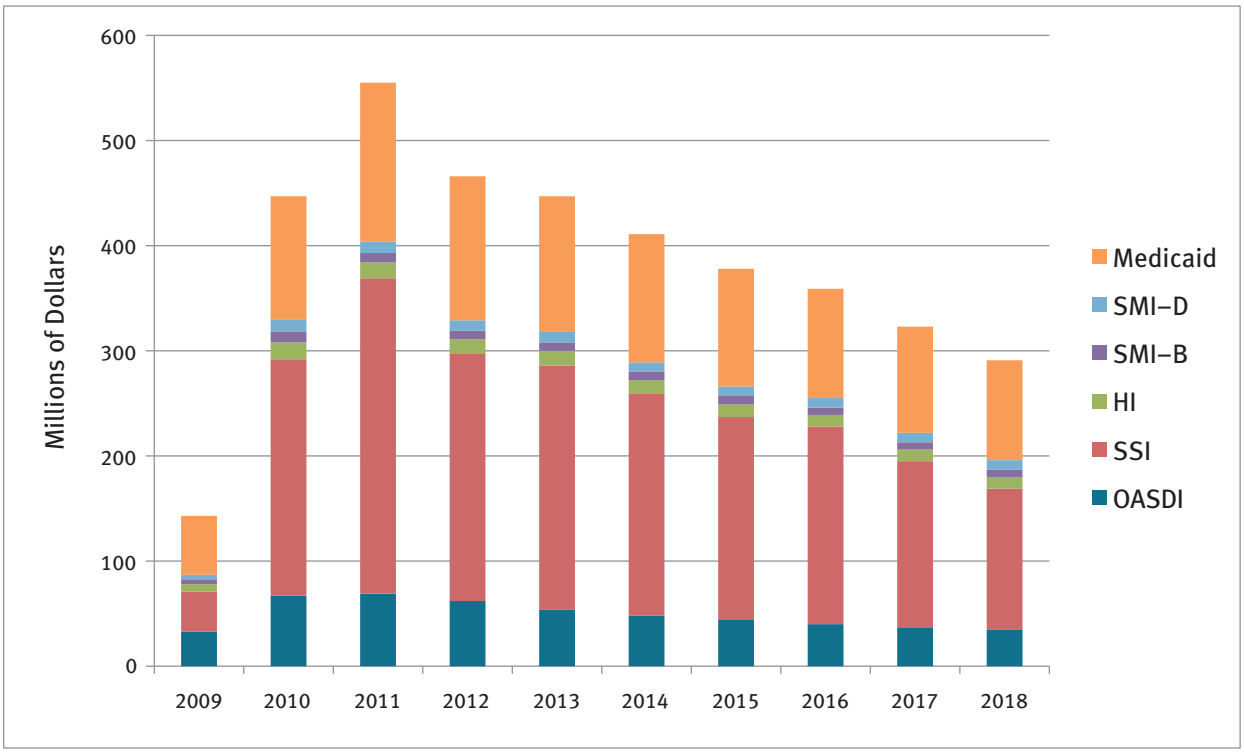


SSA is legally mandated to conduct two special types of review for SSI child beneficiaries: 1) CDRs for SSI low-birth-weight children not later than 12 months after birth, and 2) CDRs using the adult eligibility criteria to re-determine the eligibility of all SSI child beneficiaries who reach age 18.

SSI child beneficiaries have the same appeals rights as adult beneficiaries (see **Chart 14** for an explanation of levels of review). The charts show continuation rates at each level of review, with the initial decision in the year shown; e.g., the "Appeals" figure for 1995 shows continuation rates at that level for cases with an initial decision in 1995, even if the appeal decision was rendered in a later year. The ultimate numbers of continuations are subject to change until all appeals are final.

Since about 1998, continuation rates at all levels have remained relatively constant. Earlier spikes may reflect changes to policy regarding the eligibility for SSI children, policy clarifications, and training on impairments affecting children.

16. Ten Year Estimated Federal Savings by Program from Initial CDR Cessations in Fiscal Year 2009



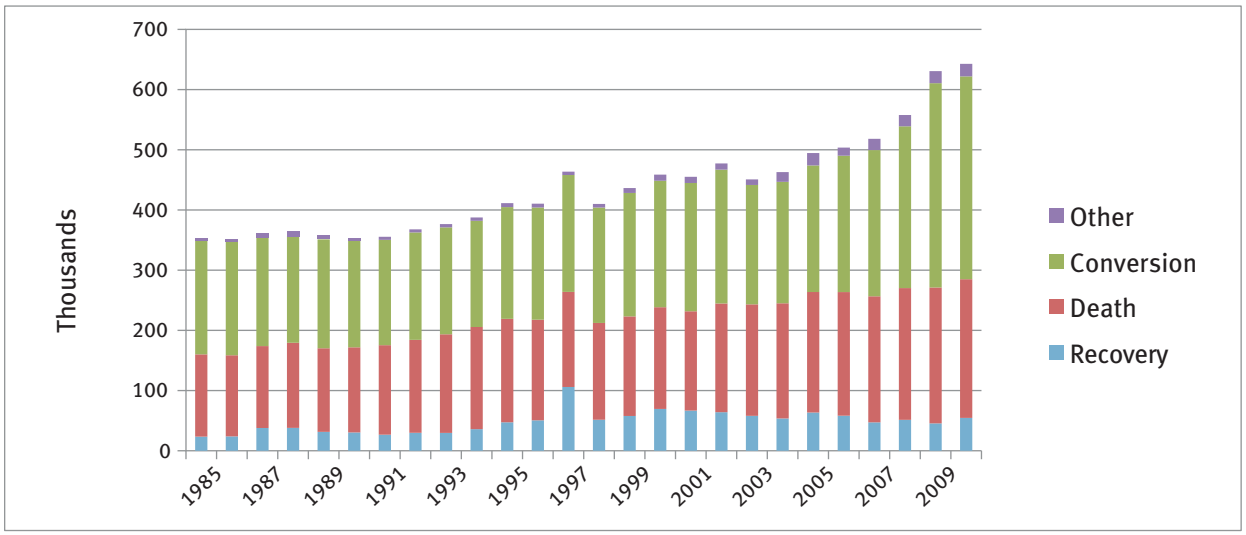
This chart shows the estimated reduction in benefit payments over a ten-year period resulting from CDR cessations in fiscal year 2009. The estimated reduction is based on a projected total of 52,629 ultimate cessations after all appeals. Of the ultimate cessations, 46,821 are estimated to be from SSI CDRs and 5,808 from DI CDRs.

Although most CDRs do not result in cessation, SSA's medical CDR process has been yielding a favorable ratio of savings-to-costs. For the period 1996 through 2008, the savings-to-cost ratio averaged about $10.5 to $1. For fiscal year 2009, SSA estimates the ratio of savings-to-administrative costs at approximately $12.5 to $1. This is calculated by dividing the estimated present value of total lifetime benefits saved with respect to CDR cessations, $4.6 billion, by the $371 million spent on periodic CDRs in fiscal year 2009. SSA expects year-to-year fluctuations in the savings-to-cost ratio due to changes in the distribution of CDRs processed by program and the percentage of cases in which there is a high likelihood of medical improvement.

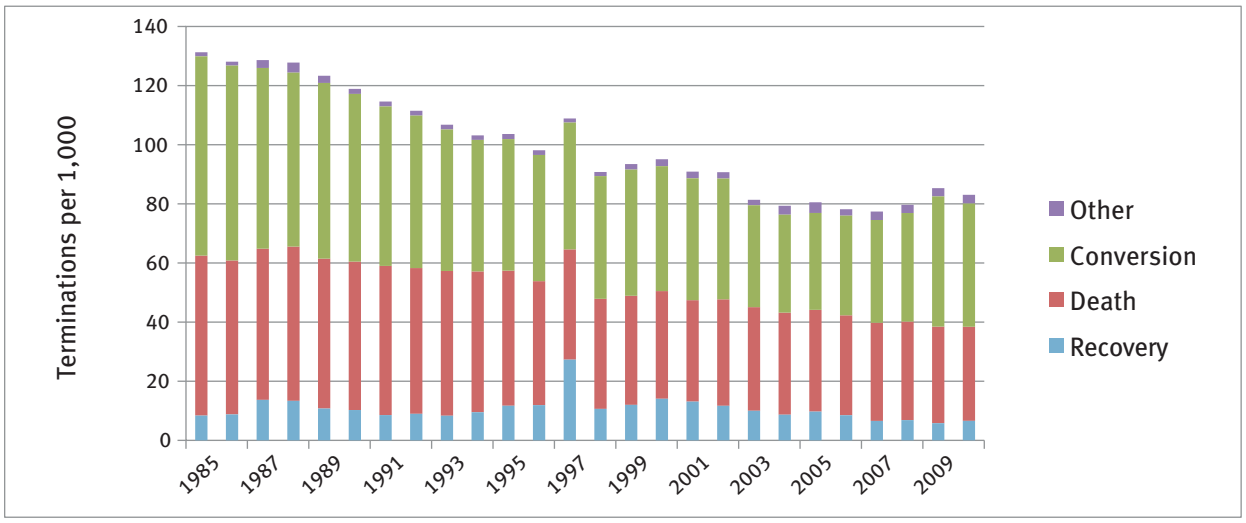
D. Terminations

17. DI Worker Terminations—Calendar Years 1985-2010

17a. Number of DI Worker Terminations, 1985-2010



17b. DI Worker Termination Rates, 1985-2010

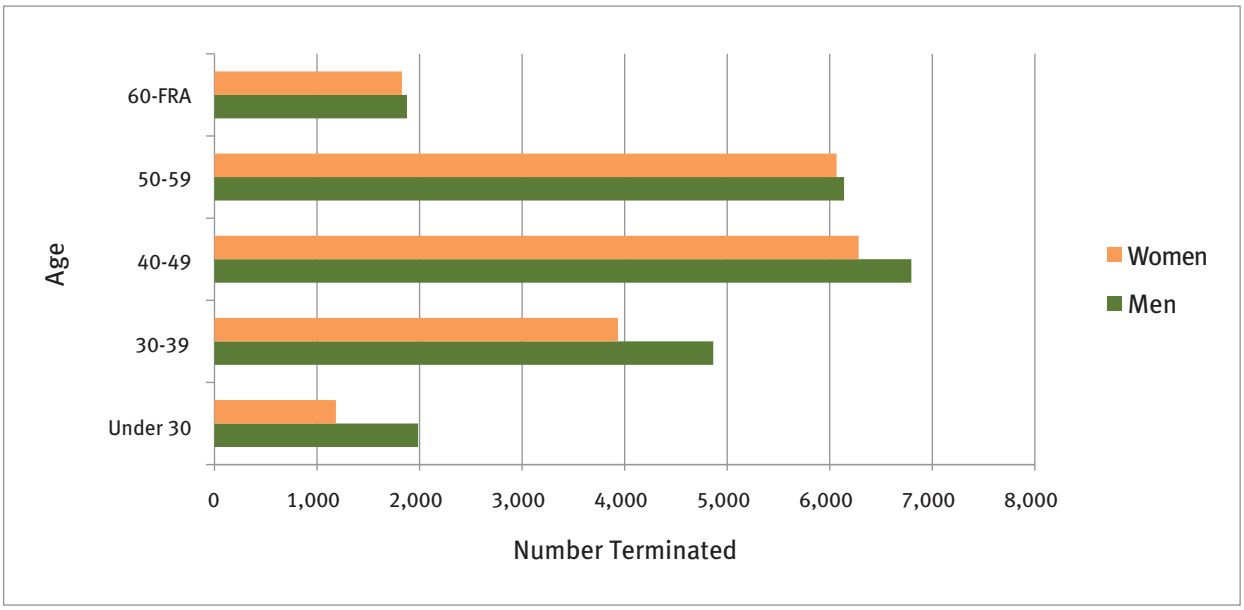


DI benefits for disabled workers can be terminated for reasons that are grouped into four categories: death, recovery (either medical recovery or return to work), conversion to retirement benefits at full retirement age, and other (switching to retirement benefits prior to full retirement age, withdrawal of application, or erroneous entitlement). **Chart 17a** illustrates a steady increase in the number of DI worker terminations since 1985. However, **Chart 17b** shows that the percentage of beneficiaries terminated has actually decreased over the years, in large part because beneficiaries have had an increasingly higher survival rate.

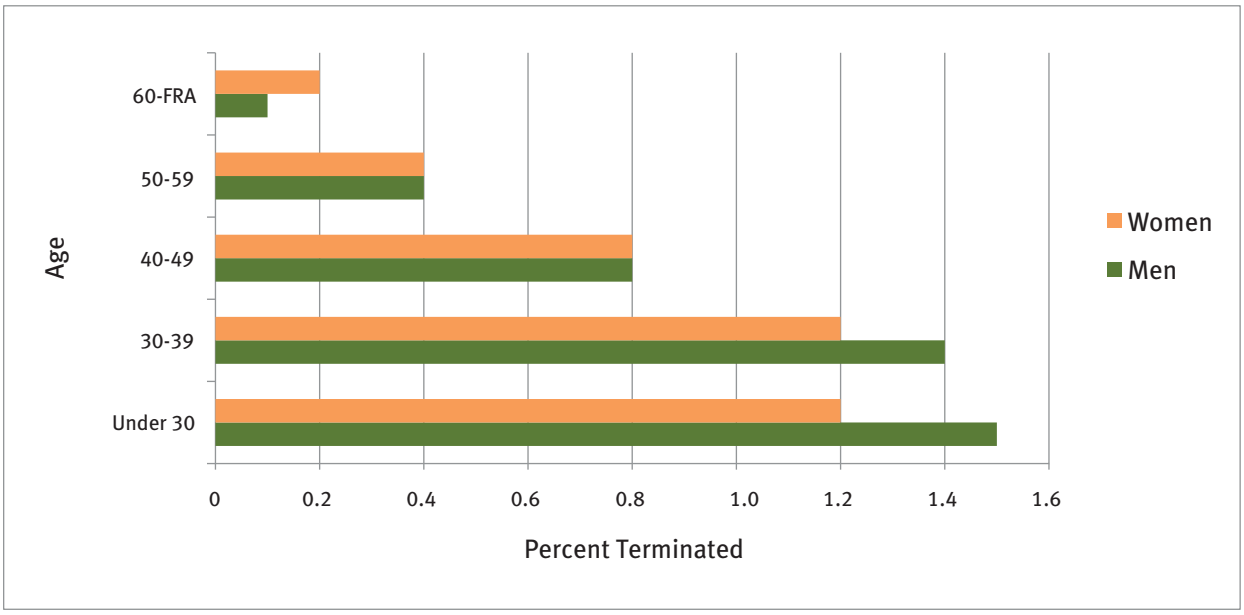
The spike in terminations for 1997 was the result of legislation that required SSA to review the eligibility of people receiving disability benefits based on a diagnosis of drug addiction and alcoholism. The legislation eliminated SSDI and SSI benefits for individuals whose disability was based on those conditions.

18. Disabled Worker Beneficiaries Terminated for Work in 2010 by Gender and Age Group

18a. Number of Disabled Worker Beneficiaries Terminated, 2010

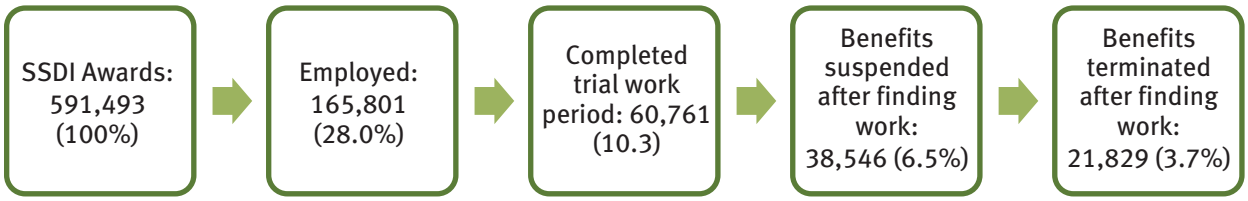


18b. Percent of Disabled Worker Beneficiaries Terminated, 2010



A total of 40,959 DI worker beneficiaries had their benefits terminated because of a successful return to work in 2010. For both men and women, this represented 0.5 percent of beneficiaries, a 0.1 percent increase from 2009. A higher percentage of younger workers had their benefits terminated for this reason. For men, the range was from 1.5 percent of beneficiaries under 30 to 0.1 percent of beneficiaries between age 60 and full retirement age. For women, the range was from 1.2 percent of beneficiaries under 30 to 0.2 percent of beneficiaries between age 60 and full retirement age.

19. Study of Beneficiaries Awarded DI Benefits in 1996 and Their Experience with Returning to Work and Leaving the Disability Rolls—(Mathematica Policy Research Study)



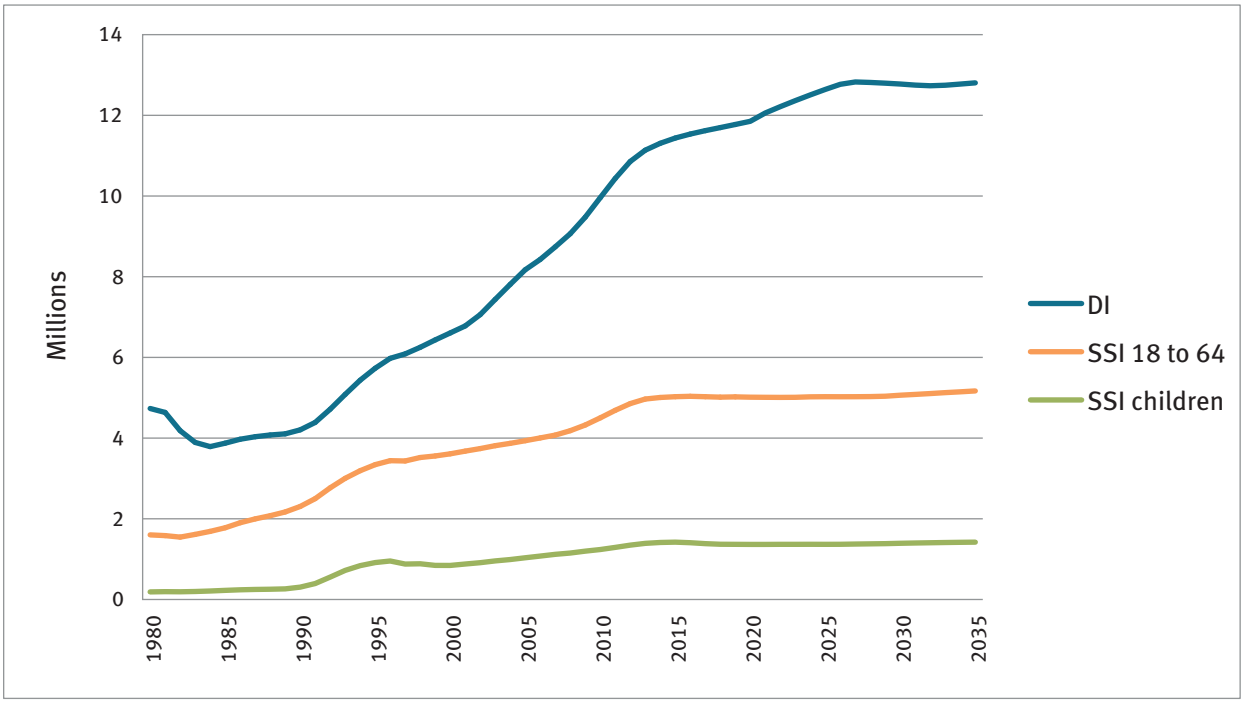
Source: This chart is taken from the Disability Policy Research Brief, *How Many SSDI Beneficiaries Leave the Rolls for Work? More Than You Might Think*, by Su Liu and David Stapleton (2010a) for Mathematica Policy Research, and is based on SSA administrative data.

An April 2010 Disability Policy Research Brief by Mathematica Policy Research, Inc., followed beneficiaries who were first awarded DI benefits in 1996 through 2006. It found that:

- 28 percent reported earnings of $1,000 or more to the Internal Revenue Service;
- 10.3 percent completed the trial work period, in which they can work for nine months without loss of benefits;
- 6.5 percent had their benefits suspended for working at the level of "substantial gainful activity" in the first 36 months after completing the trial work period. This 36 month period is known as the "extended period of eligibility"; and
- 3.7 percent had their benefits terminated because they engaged in substantial gainful activity after the extended period of eligibility.

E. Beneficiaries

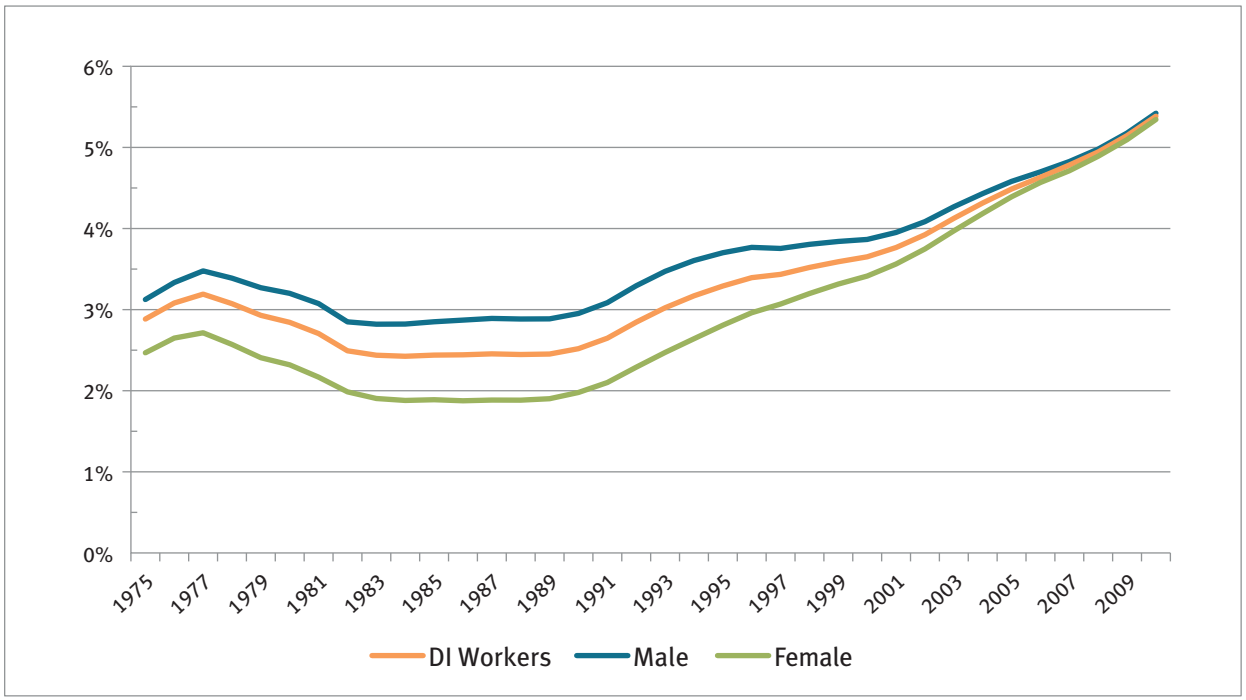
20. DI and SSI Beneficiaries—Calendar Years 1980-2035 (Projected)



This chart shows actual data for 1980 through 2010, and projections for 2011 and later (based on the 2011 *Trustees Report* and the 2011 *Annual Report of the SSI Program*). The number of DI beneficiaries more than doubled between 1980 and 2010. In the same period, the number of SSI beneficiaries under age 18 increased more than six-fold, and the number of SSI beneficiaries ages 18 to 64 nearly tripled.

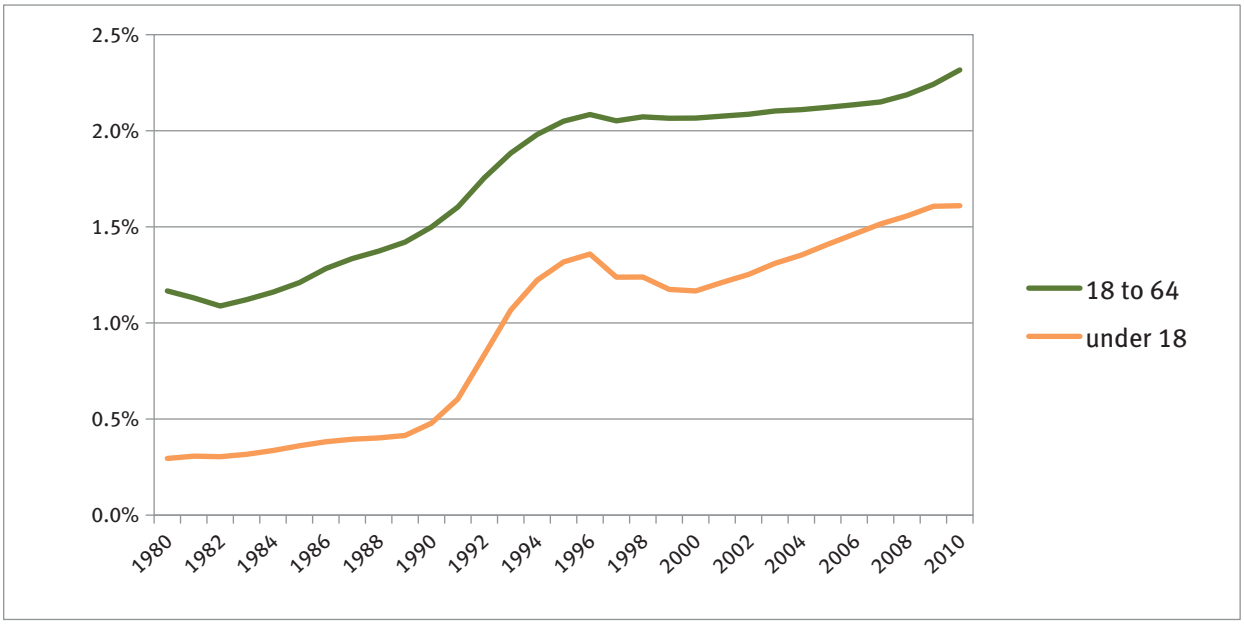
Currently, about 1.9 million disabled beneficiaries receive both Social Security and SSI benefits, known as concurrent beneficiaries. Also, the DI figures on this page include dependents. As of December 2010, there were 8.2 million DI worker beneficiaries and 2 million spouses and children receiving benefits.

21. DI Worker Beneficiaries as Percentage of Population Insured for Disability by Gender—Calendar Years 1975-2010



This chart shows the prevalence rate for DI worker benefits. Since 1989, there has been an overall increase in the percentage of the population insured for disability that is receiving disability benefits. In addition, women's labor force participation has increased leading to more women achieving insured status for SSA's disability program. As these women age into their disability prone years, the prevalence rates of disability for men and women have converged.

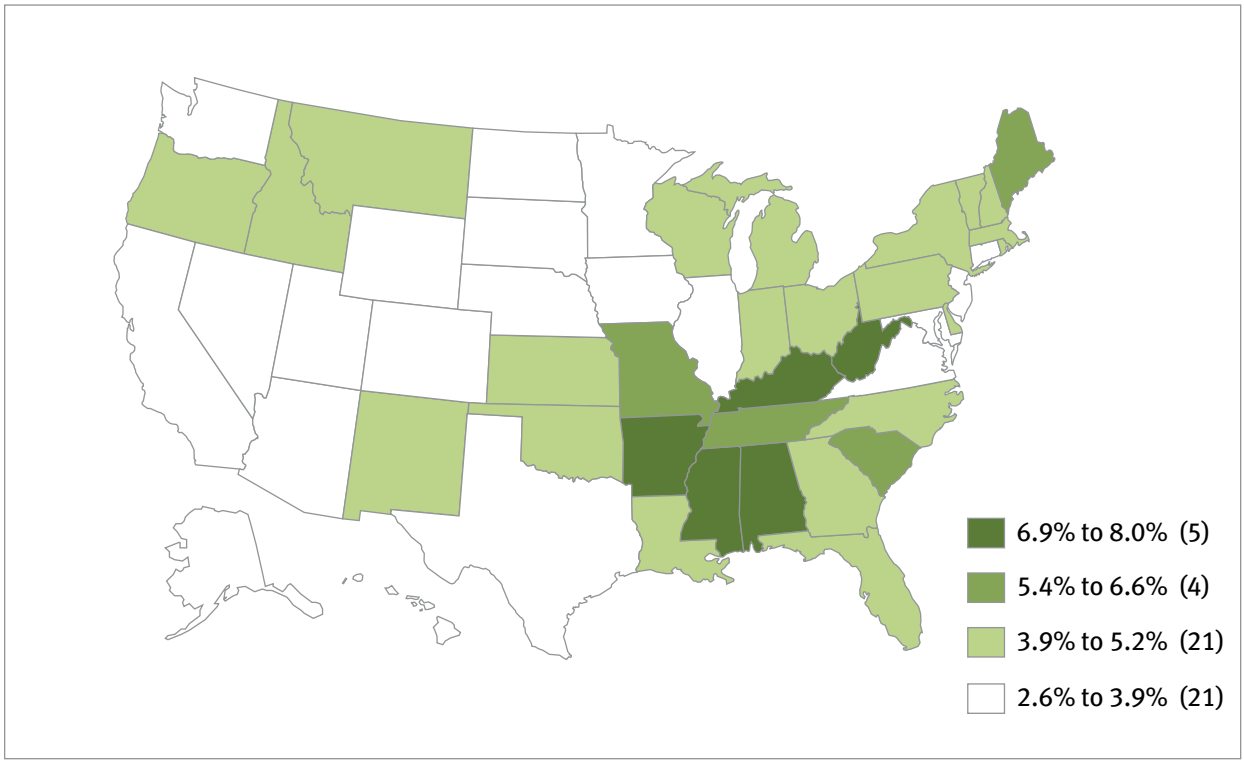
22. SSI Beneficiaries as Percentage of Population by Age Group—Calendar Years 1980-2010



Since 1980, the percentage of the adult population receiving SSI disability benefits has nearly doubled, and the percentage of children receiving SSI benefits has increased more than fivefold. For both groups, growth was most rapid in the early 1990s. For adults, there has been slight change since 1995, with a small uptick since 2008 most likely due to the economy.

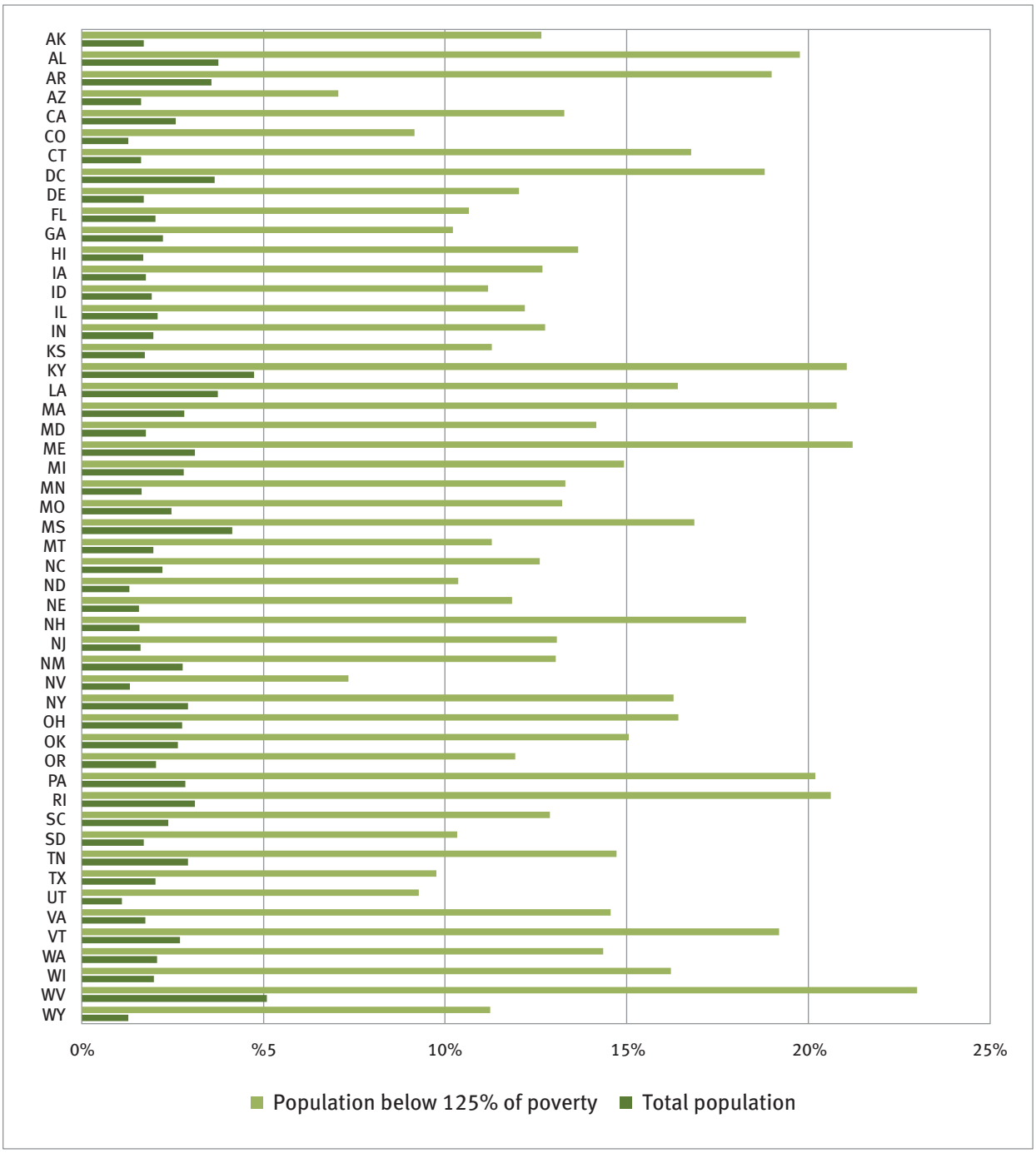
The percentage of children receiving benefits increased in the early 1990s following the *Zebley* Supreme Court decision, and then declined for a few years following passage of the 1996 *Personal Responsibility and Work Opportunity Act*, which changed some of the SSI childhood criteria. The steady rise in the percentage of children receiving SSI since 2001 may be in part the result of SSA's extensive training for its adjudicators on impairments affecting children and other program policy initiatives.

23. Disabled Worker Beneficiaries as Percentage of State Population Ages 18 to 64—2010



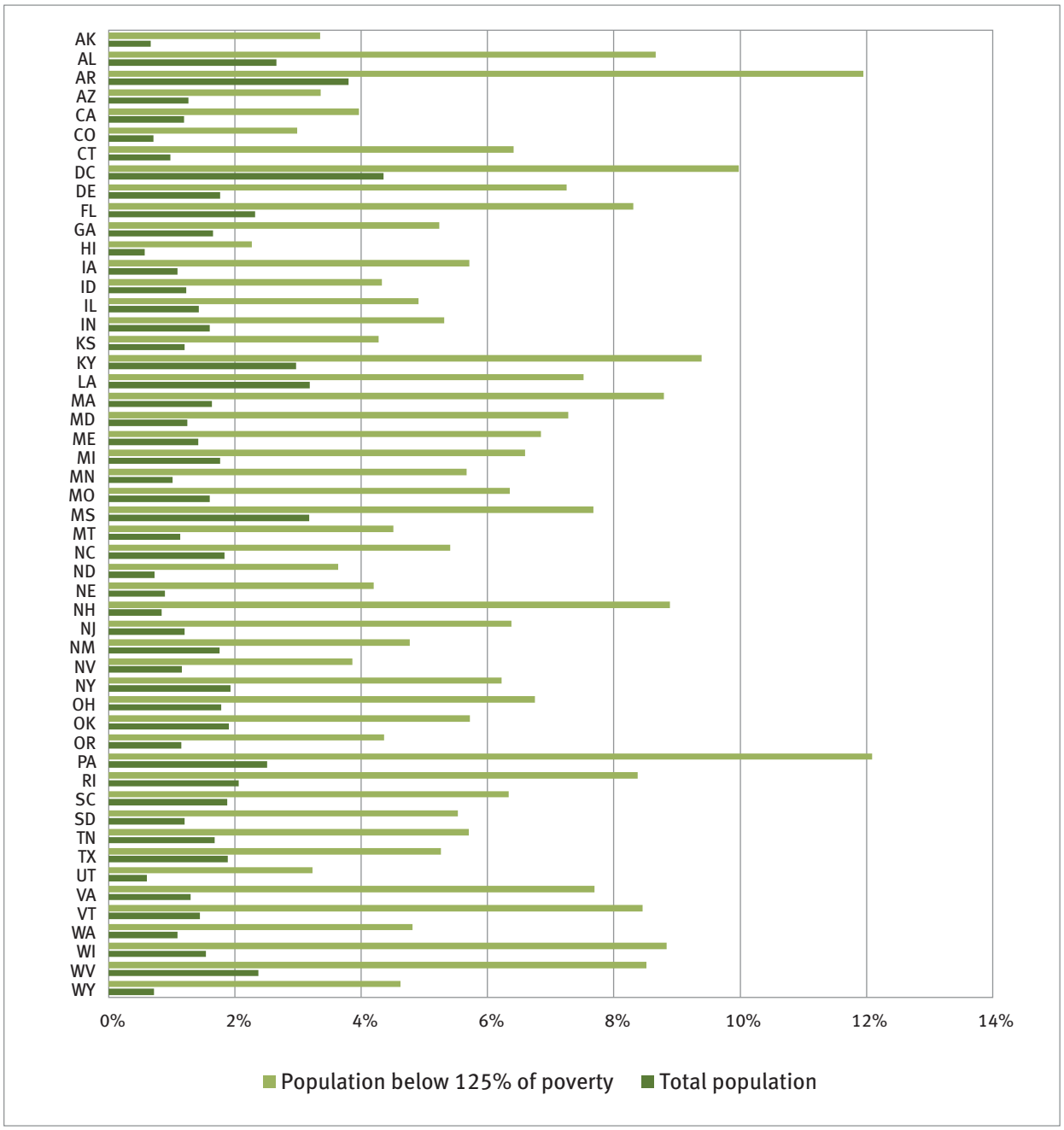
In most States, disabled worker beneficiaries in 2010 were 5 percent or less of the population ages 18 to 64, but the percentage in a few States was higher. The range was from 2.6 percent in Utah to 8 percent in West Virginia.

24. SSI Disabled Adult Beneficiaries in 2010 as Percentage of Total State Population 18 to 64 and of State Population 18 to 64 Below 125% of Poverty Level



The percentage of State population ages 18 to 64 receiving SSI benefits in 2010 ranged from 1.1 percent in Utah to 5.1 percent in West Virginia. Considering only population 18 to 64 in households below 125 percent of the poverty level, rates in 2010 ranged from 7.1 percent in Arizona to 23 percent in West Virginia.

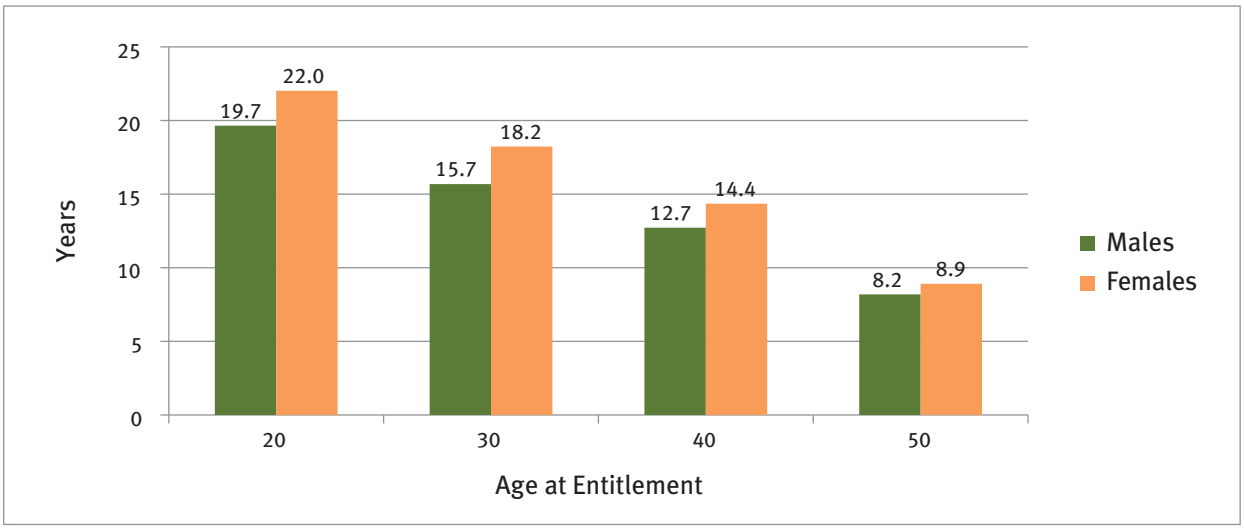
25. SSI Children Beneficiaries in 2010 as Percentage of Total State Population under 18 and of Population under 18 below 125% of Poverty Level



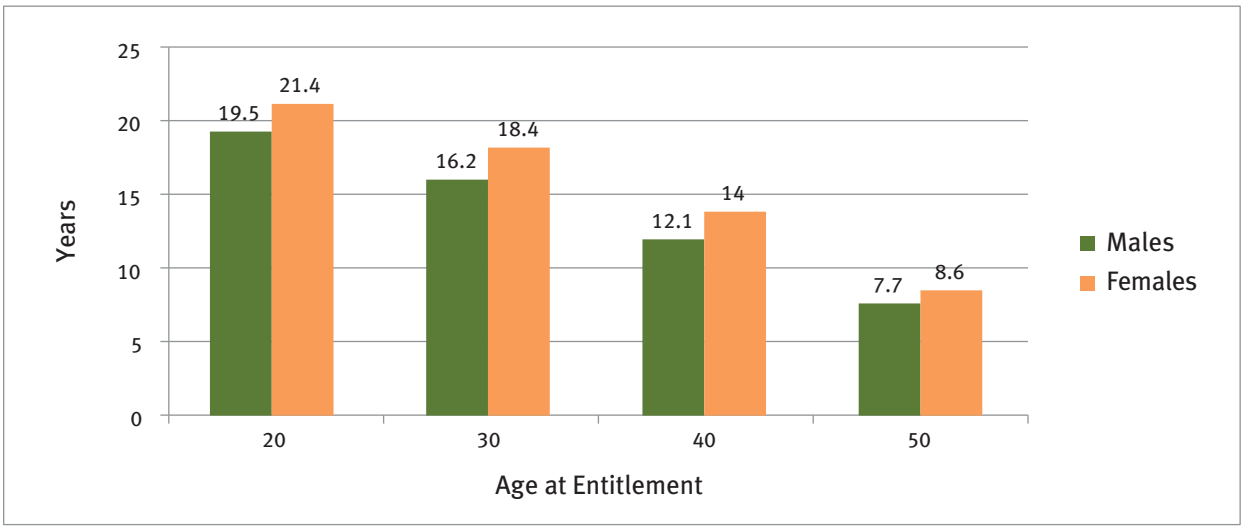
There was a wide variation among States in the percentage of the population under 18 receiving SSI disability benefits in 2010, ranging from 0.6 percent in Hawaii to 4.4 percent in the District of Columbia. Looking at just the population under 18 living in households with income below 125 percent of the poverty level, the percentage receiving SSI disability benefits in 2010 ranged from 2.3 percent in Hawaii to 12.1 percent in Pennsylvania.

26. Expected Time on DI Rolls—2010

26a. 2001-2005 Social Security DI Disability Experience



26b. 1996-2000 Social Security DI Disability Experience

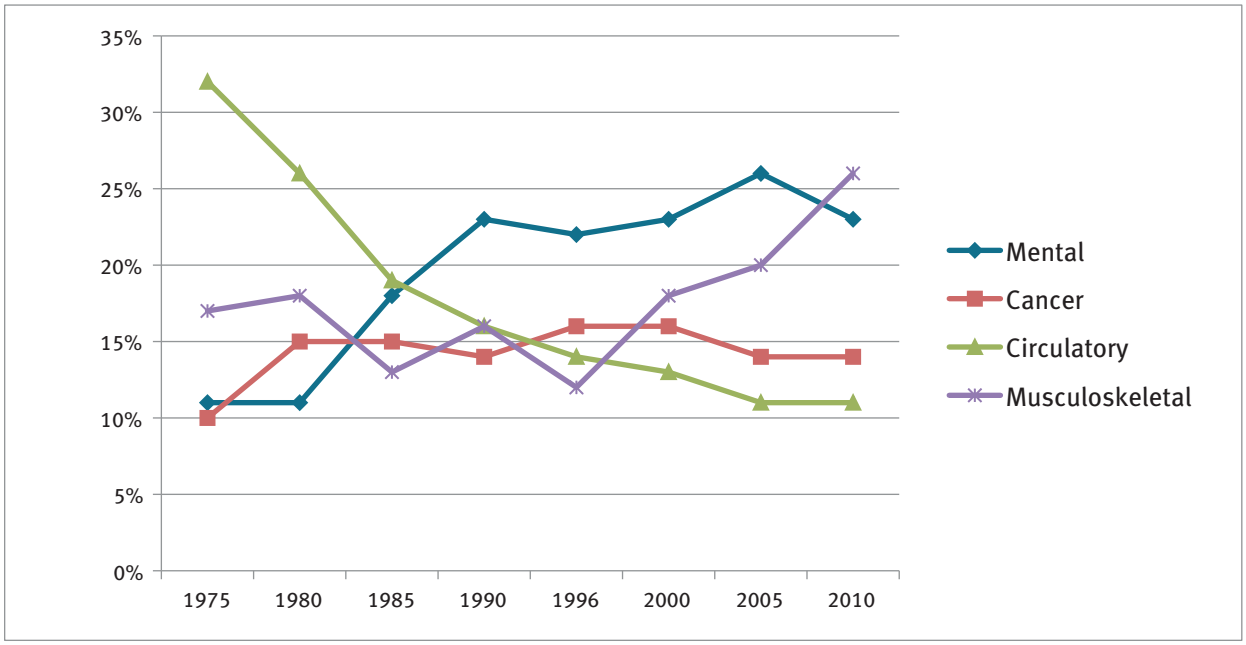


These charts show the average duration on DI worker benefits prior to termination due to death, recovery, or attainment of age 65 based on past disability experience. Compared to the experience between 1996 and 2000, duration increased for all ages except age 30 for the experience between 2001 and 2005. In each age group, the average duration is higher for women.

Technically, the charts show length of entitlement, which is defined as meeting all requirements for the receipt of benefits, including the filing of an application. It is not equivalent to receipt of benefits for all months, since benefits may not be due for specific months during a period of entitlement for a number of reasons. For example, an individual may not be due benefits for any month he/she worked above the substantial gainful activity level after the completion of the trial work period.

F. Beneficiary Characteristics

27. Initial DI Worker Awards by Major Cause of Disability—Calendar Years 1975-2010

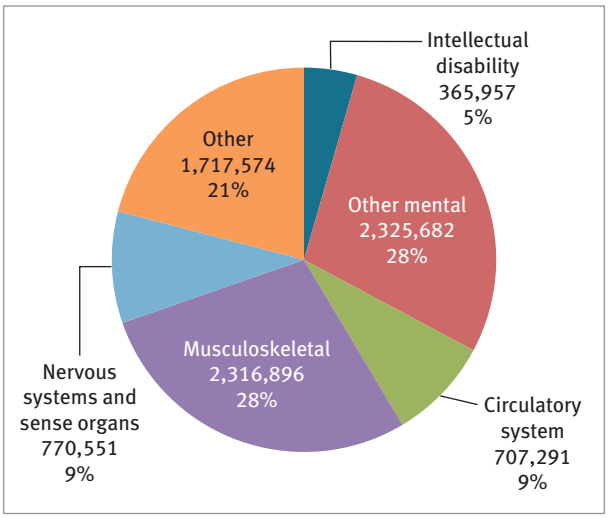


For many years, the mental impairment category was the largest single category of State agency disability awards. By 2010, however, musculoskeletal impairments began to exceed mental impairments as the basis for award. Other major causes are cancer and impairment of the circulatory system. The percentage of cases awarded on the basis of a circulatory impairment, however, has declined substantially over the years.

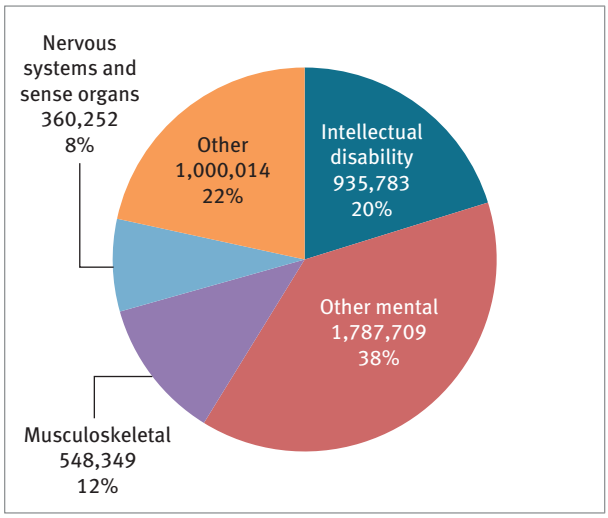
One contributing factor to the growth in mental impairment cases is the special review carried out to identify and evaluate 130,000 Supplemental Security Income (SSI) beneficiaries who were potentially eligible for Social Security disabled worker benefits because of earnings while receiving SSI. Many of these claims had a mental disorder diagnosis. This review was substantially concluded by March 2011.

28. Number and Percentage of Beneficiaries by Type of Impairment—December 2010

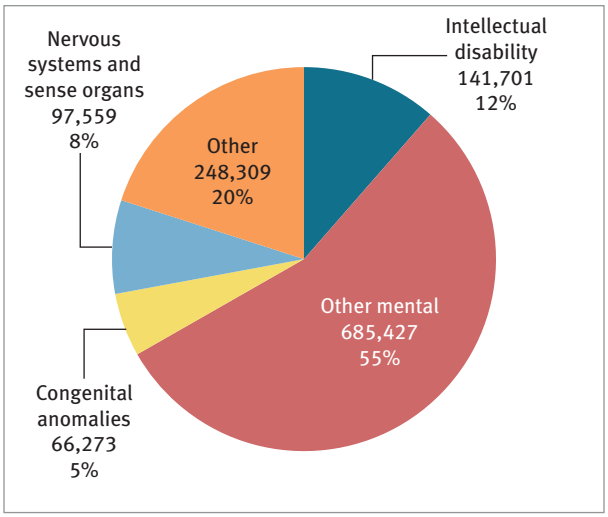
28a. DI Worker Beneficiaries



28b. SSI Beneficiaries, Ages 18 to 64

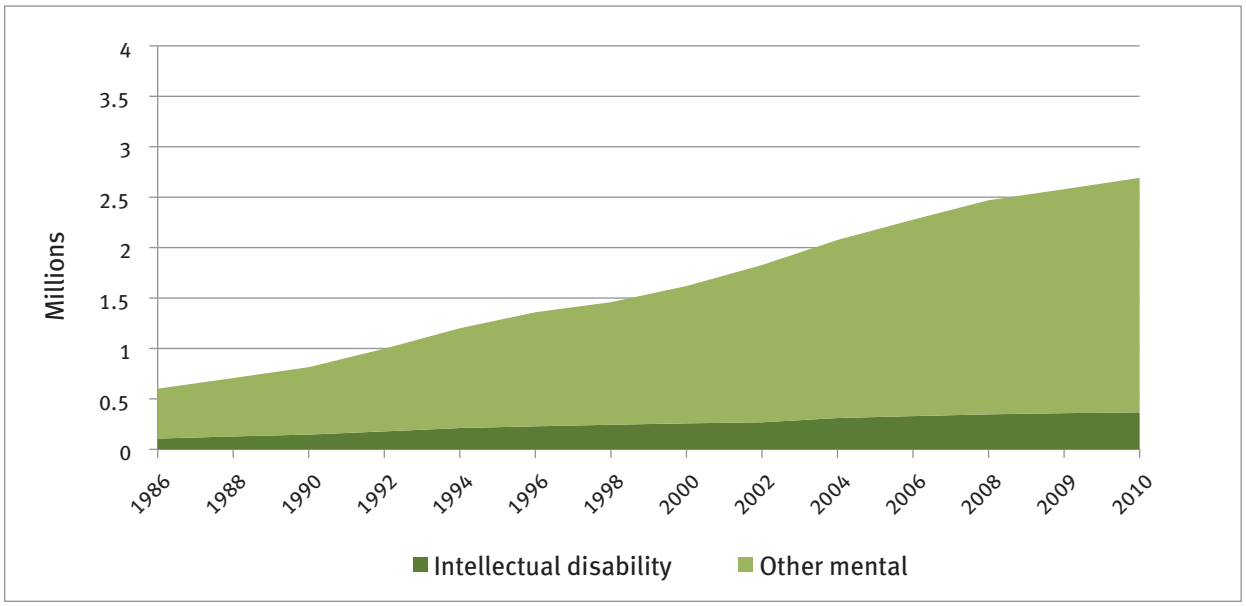


28c. SSI Beneficiaries under Age 18

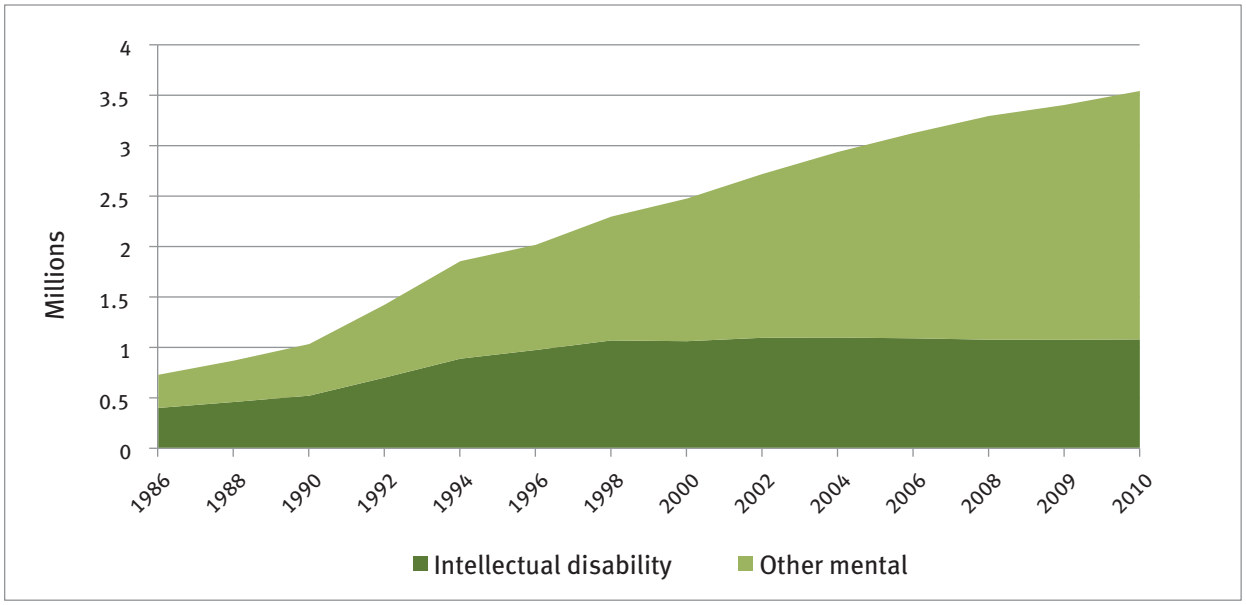


29. DI and SSI Beneficiaries with Diagnosis of Mental Impairment—Calendar Years 1986-2010

29a. DI Beneficiaries with Diagnosis of Mental Impairment, 1986-2010

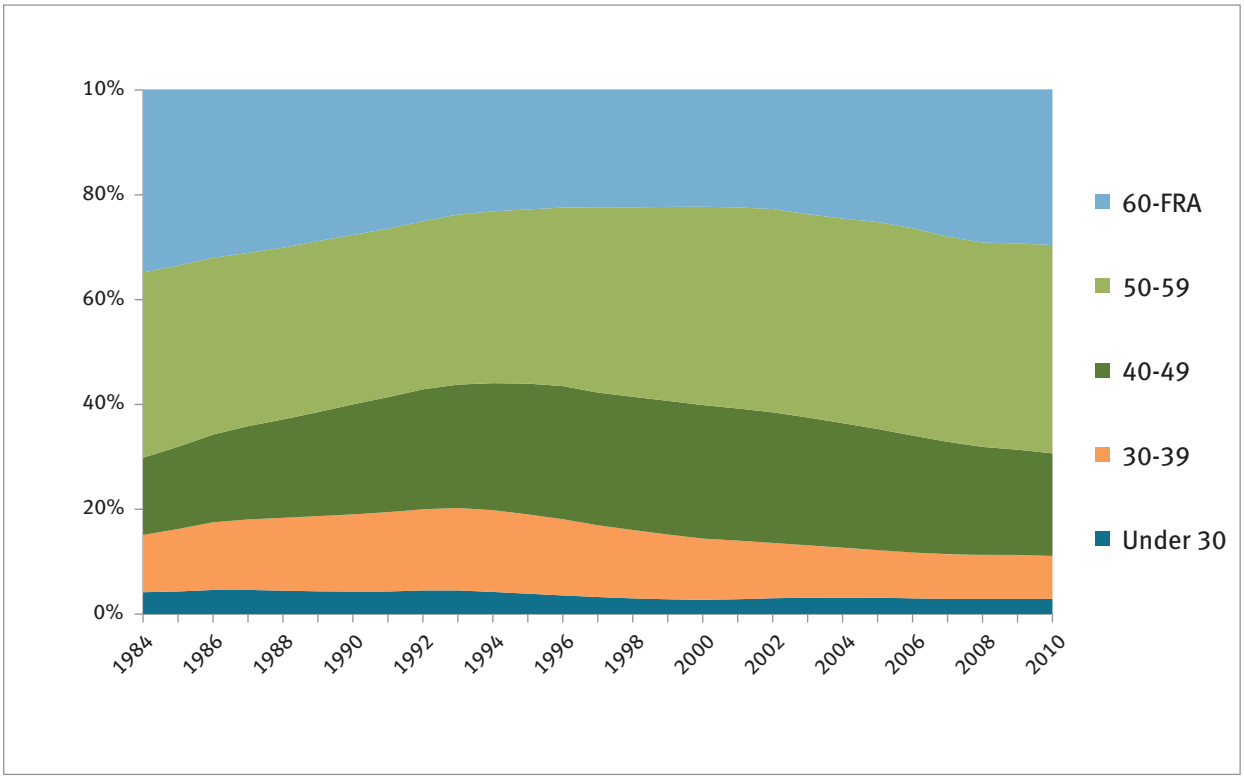


29b. SSI Beneficiaries with Diagnosis of Mental Impairment, 1986-2010



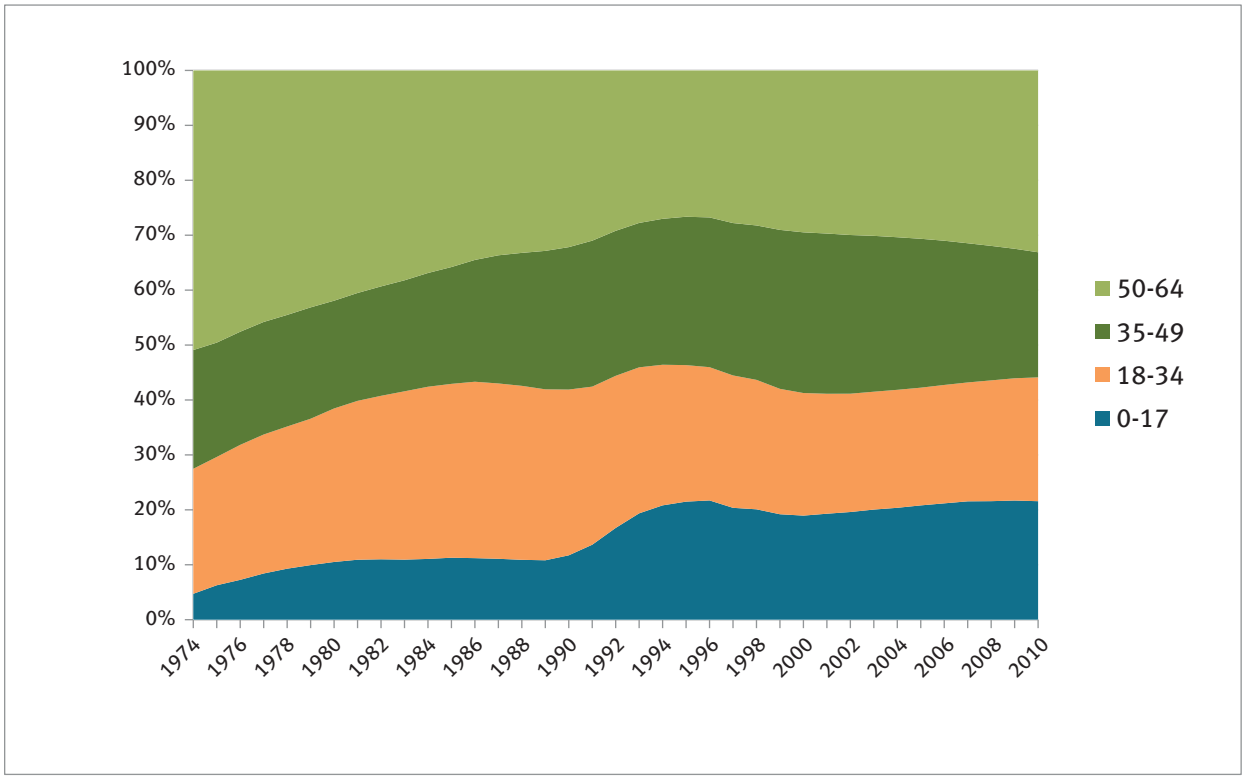
The 1980s saw significant changes in legislation, regulation, and adjudicative standards for mental disabilities. In August 1985, there was a complete revision of the adult mental listings, followed by limited revisions in 2000. Since the mid-1980s, the number of beneficiaries with a diagnosis of mental impairment has grown significantly in both the DI and the SSI programs. The growth in SSI has been particularly pronounced.

30. Share of DI Worker Beneficiaries by Age Group—Calendar Years 1984-2010



The age distribution of DI worker beneficiaries largely reflects changing demographics. DI beneficiaries are converted to retirement benefits at full retirement age (FRA), the age at which they can receive unreduced retirement benefits. The 1983 *Social Security Amendments* raised that age, which was then 65, beginning with people born in 1938 or later. FRA is currently 66.

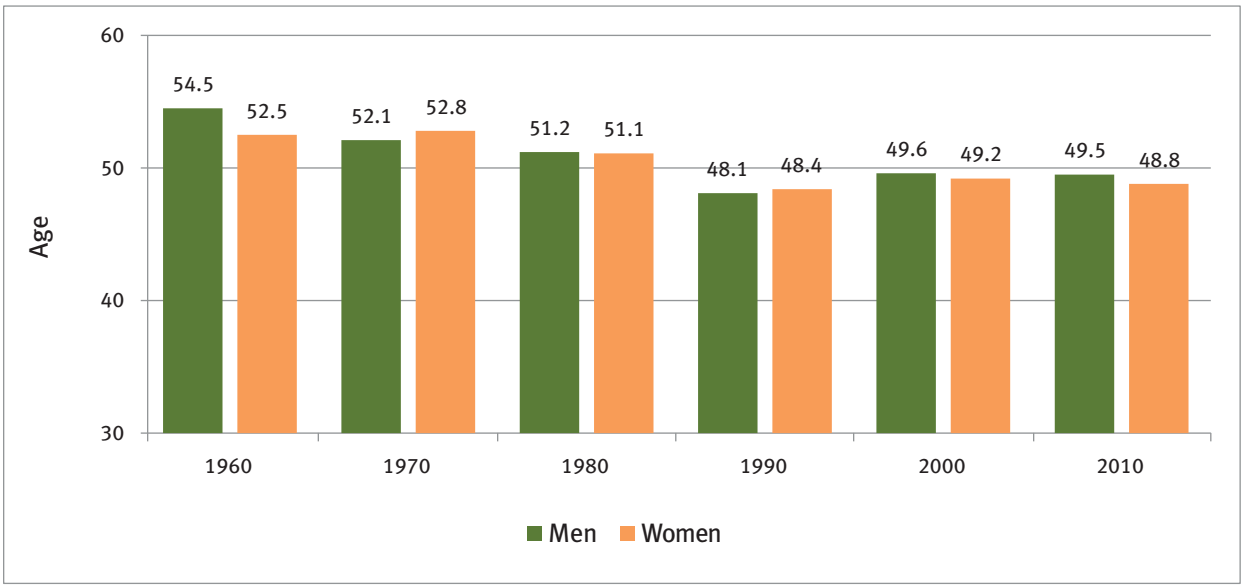
31. Share of SSI Disabled Beneficiaries under Age 65 by Age Group—Calendar Years 1974-2010



Throughout the SSI program's history, there have been slow increases in the number of disabled beneficiaries for all age groups. The youngest age bracket saw sharp growth in the early 1990s after the *Zebley* Supreme Court decision changed the definition of eligibility for children. That growth began to level off after 1996's *Personal Responsibility and Work Opportunity Act* tightened the SSI childhood criteria. The single largest group receiving SSI today, however, is the age group 50-64, representing nearly one-third of all beneficiaries.

32. Average Age of Newly Awarded DI and SSI Disabled Adult Beneficiaries—Calendar Years 1960-2010 (DI) and 1980-2010 (SSI)

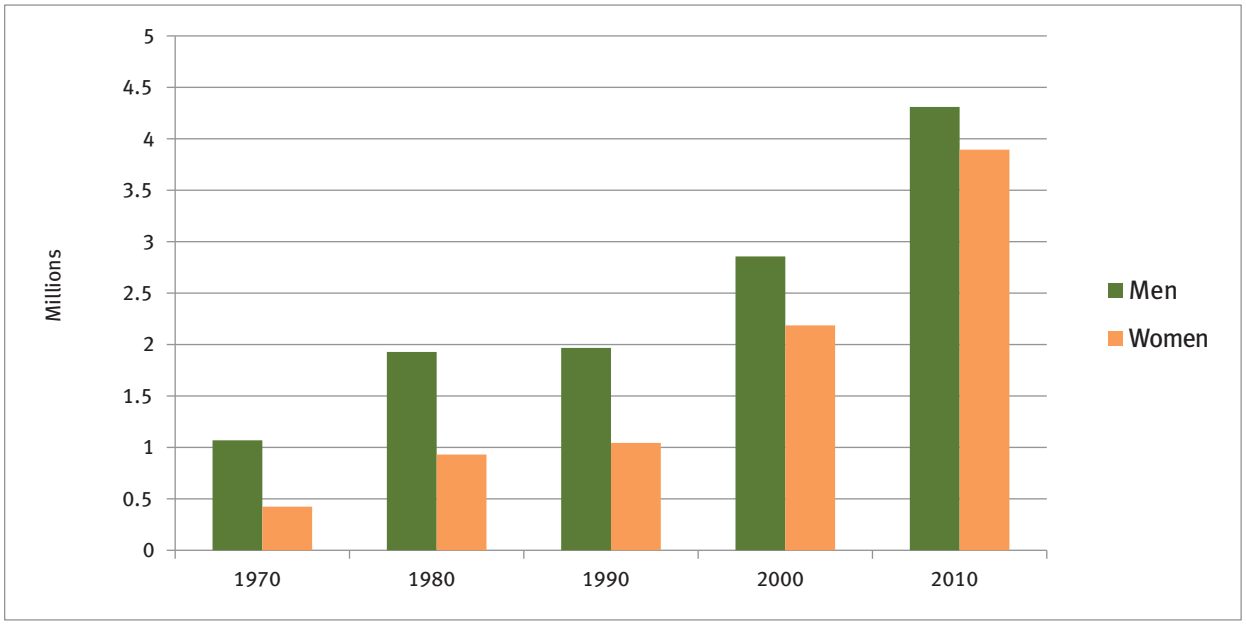
32a. Average Age of Newly Awarded DI Beneficiaries, 1960-2010



32b. Average Age of Newly Awarded SSI Disabled Adult Beneficiaries, 1980-2010

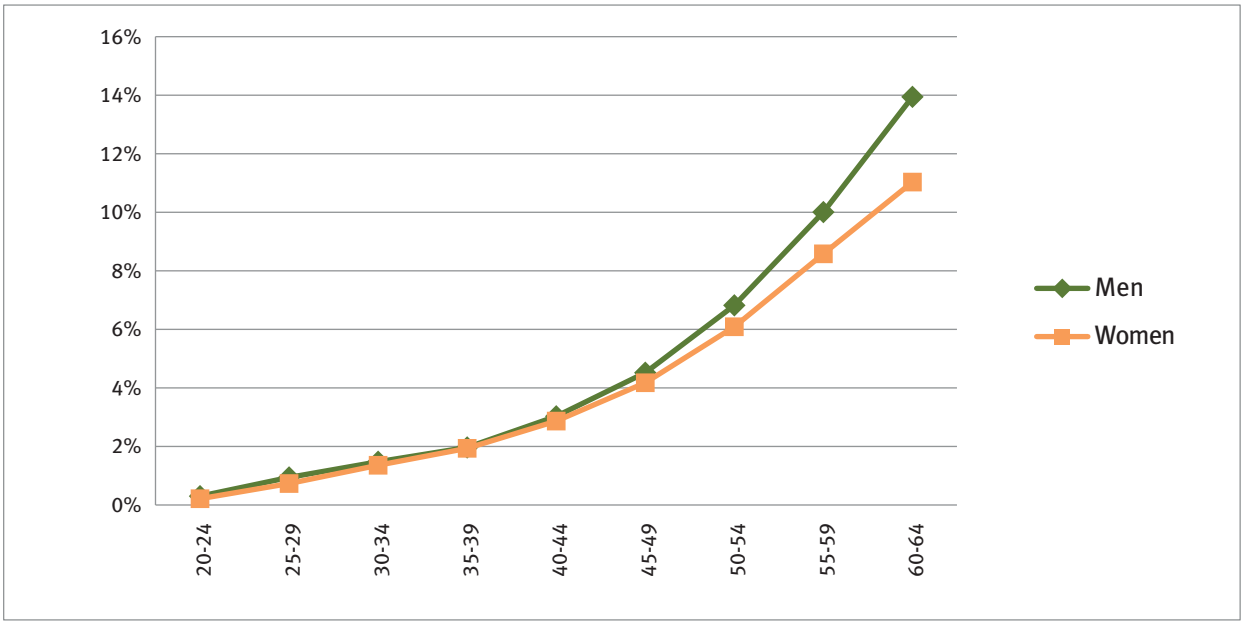
There has been an overall downward trend in the age of newly awarded DI beneficiaries. The average age of newly awarded adult SSI disability beneficiaries has been consistently lower than that of new DI beneficiaries.

33. Number of DI Worker Beneficiaries by Gender—Calendar Years 1970-2010



Women comprise an increasingly large proportion of DI worker beneficiaries. In 1970, they were 28 percent of the DI worker beneficiaries; by 2010, they represented 47 percent.

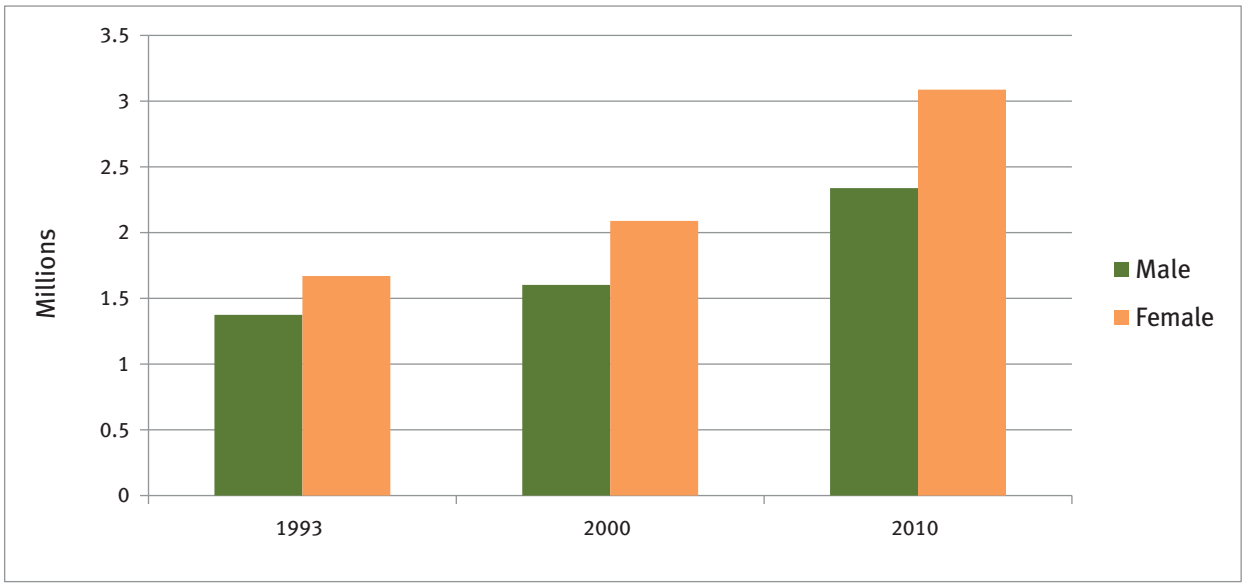
34. Percentage of U.S. Population Receiving DI Worker Benefits by Gender and Age Group, 2010



The proportion of the population receiving SSDI rises rapidly with age for both men and women for many reasons. First, the likelihood of having disabling conditions increases with age and the large baby boom generation is now moving through their most disability prone years. The criteria for eligibility above age 50 are somewhat more lenient than at younger ages. Finally, many of those awarded disability at earlier ages have impairments with longer life expectancy and will remain on the program until they convert to retirement benefits.

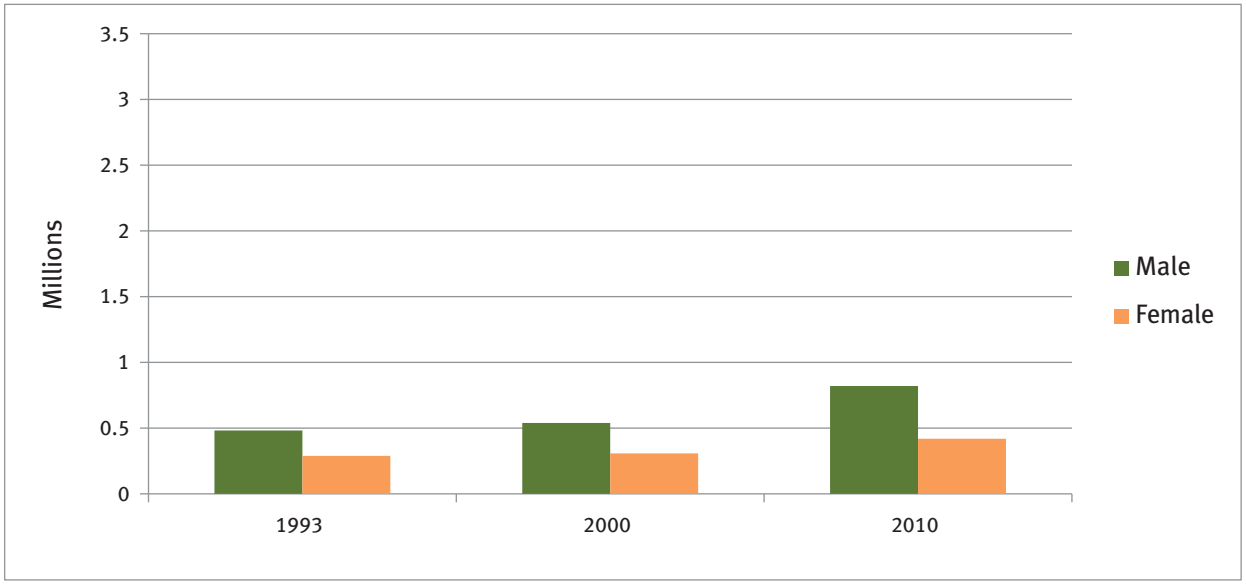
35. Number of SSI Disabled Adult and Child Beneficiaries by Gender—Calendar Years 1993-2010

35a. SSI Disabled Adult Beneficiaries, 1993-2010



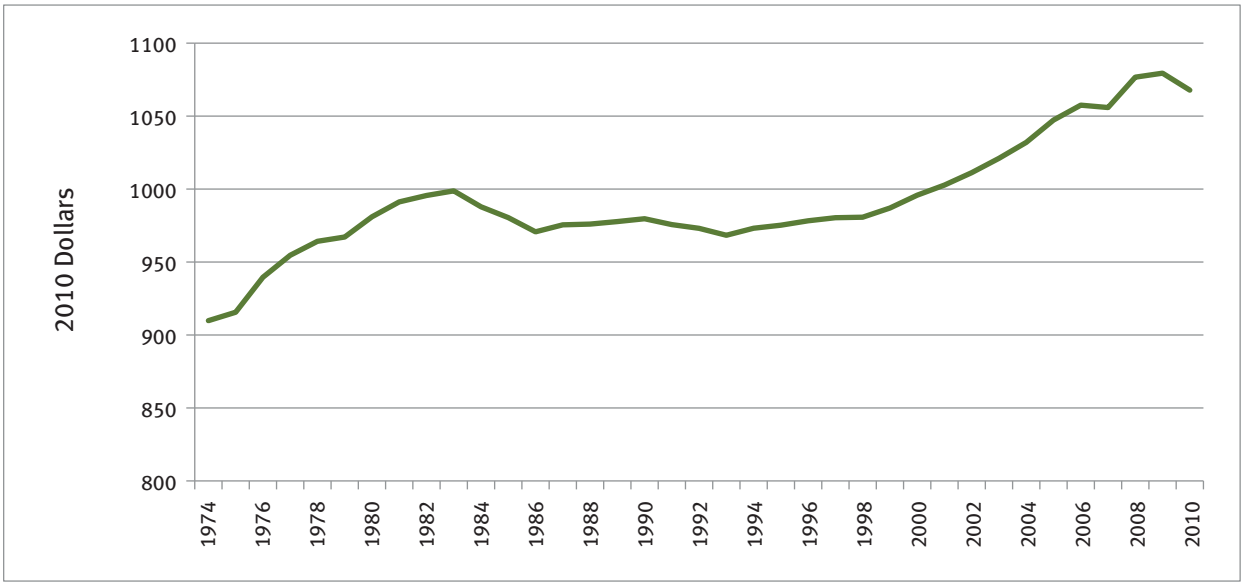
Women are a majority of SSI disabled beneficiaries between 18 and 64. In the years shown, they ranged from 55 percent to 57 percent of this group of beneficiaries.

35b. SSI Disabled Child Beneficiaries, 1993-2010



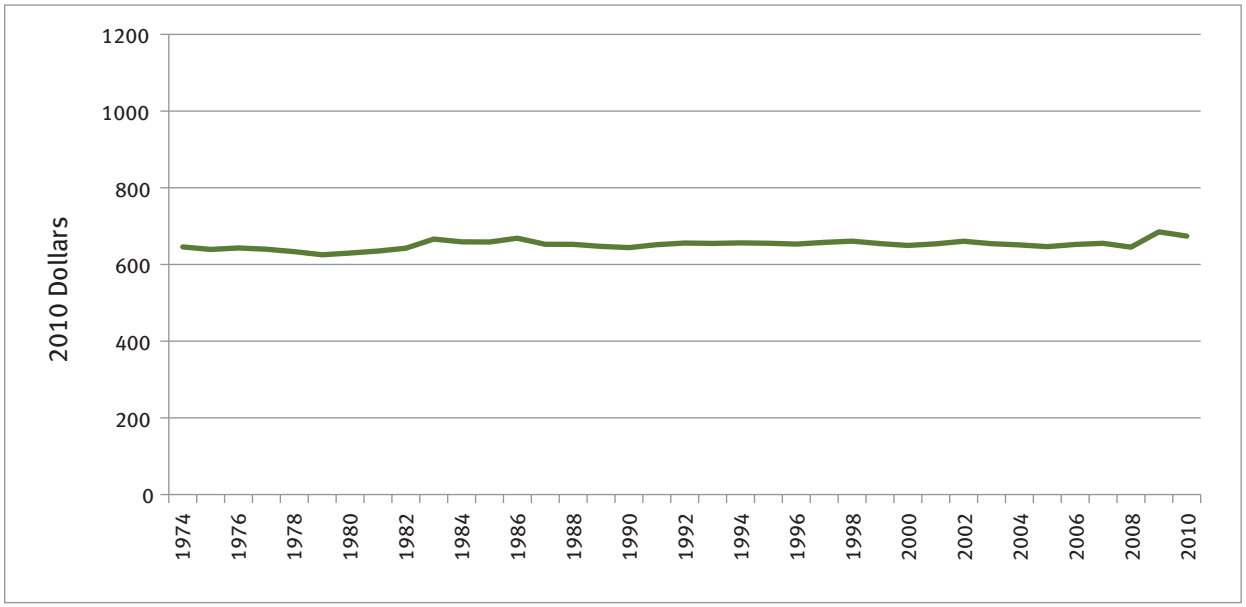
For beneficiaries under age 18, on the other hand, males are in the majority, making up 63 to 66 percent of the total in each of the years shown. The diagnostic group with the largest imbalance by gender is mental disorders (other than intellectual disability). Males account for 73 percent of that group.

36. Average Monthly DI Worker Benefit in 2010 Dollars—Calendar Years 1974-2010



Expressed in 2010 dollars, the average DI worker benefit saw a gradual increase, from $910 in 1974 to $1,068 in 2010.

37. Monthly SSI Individual Federal Benefit Rate in 2010 Dollars—Calendar Years 1974-2010

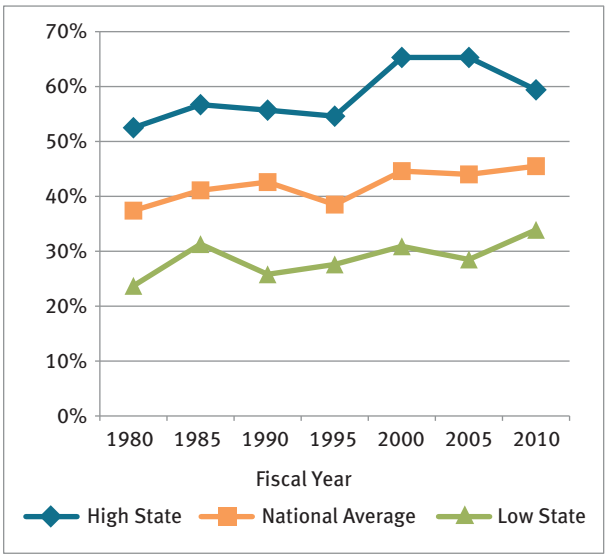


Expressed in constant dollars, the SSI Federal benefit rate has been fairly flat since the program began.

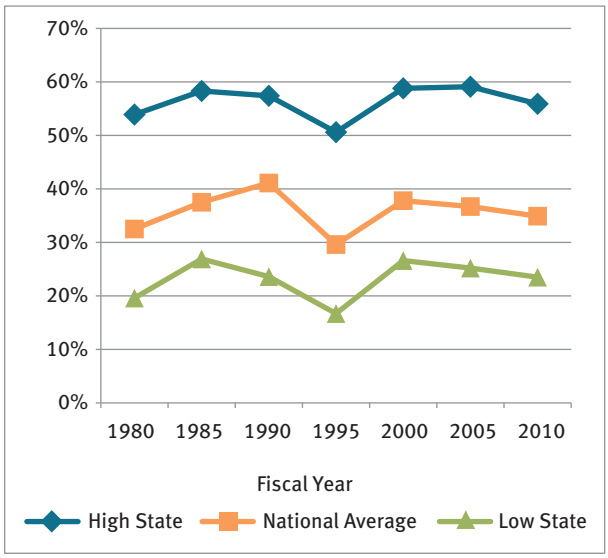
G. Variation in DDS Decision Making

38. Variations in State Agency Initial Allowance Rates—Fiscal Years 1980-2010

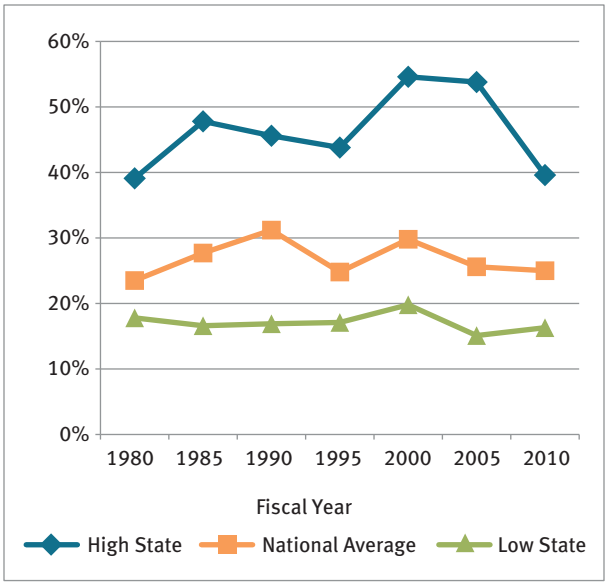
38a. DI-only Claims, 1980-2010



38b. SSI-only Claims, 1980-2010

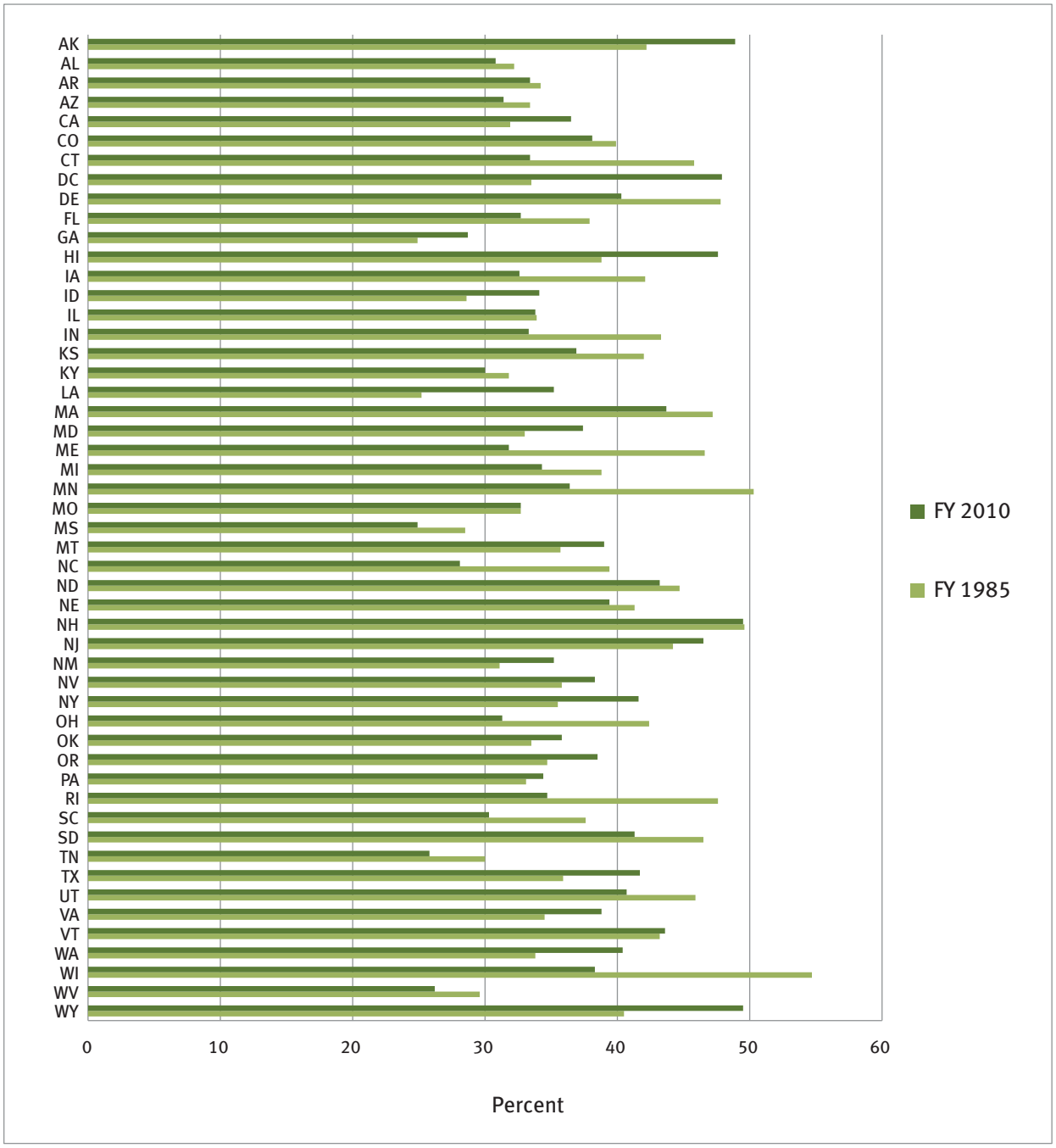


38c. Concurrent Claims, 1980-2010



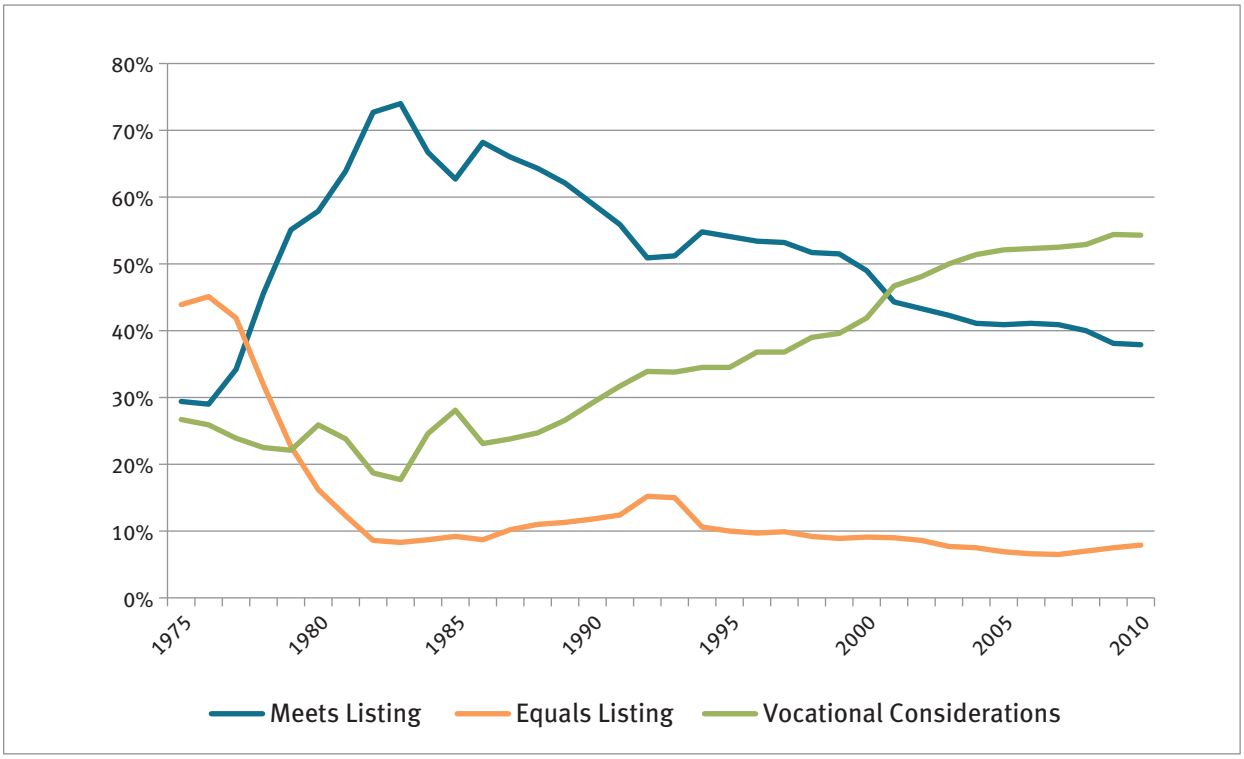
State agency allowance and denial rates vary widely from State to State. For example, in 2010 the percentage of cases decided favorably for DI-only applicants ranged from a high of 59 percent in New Jersey to a low of 34 percent in Tennessee. For SSI-only disability claims in 2010, allowance rates ranged from 56 percent in Alaska to 24 percent in Mississippi. For concurrent DI-SSI claims, allowance rates ranged from 40 percent in New Hampshire to 16 percent in West Virginia. The variation in allowance rates may reflect different characteristics of claimants or in the nature of industry in a particular area (e.g. mining, manufacturing, farming, etc.).

39. State Agency Initial Allowance Rates for DI and SSI by State—Fiscal Years 1985 and 2010



State agency initial allowance rates have also varied over time. For example, the District of Columbia's allowance rate increased by 14 percentage points between 1985 and 2010, while Wisconsin's decreased by 16 percentage points.

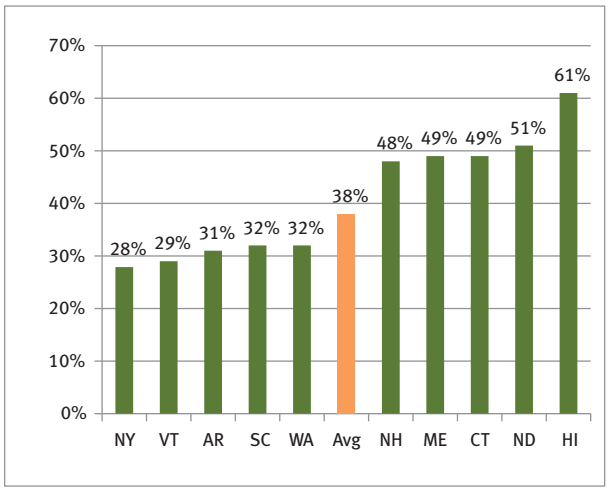
40. Percentage of State Agency DI Awards by Basis for Decision—Fiscal Years 1975-2010



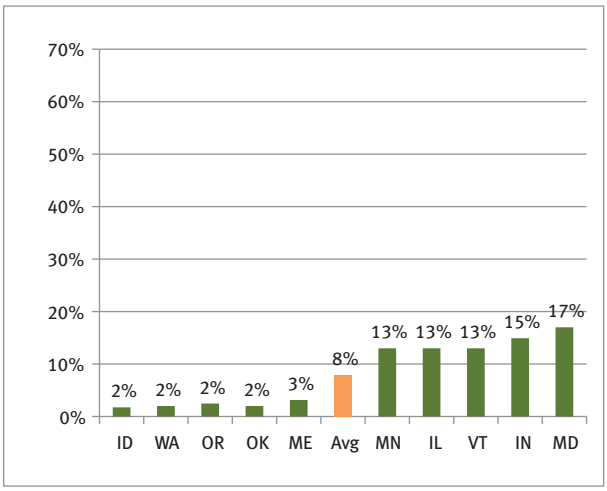
Since 1983, the percentage of initial level DI cases awarded on the basis of meeting the medical listings has declined from 72 percent to 38 percent, while the percentage of cases awarded on the basis of equaling the listings has remained relatively flat. The percentage based on vocational (or functional) evaluation has tripled, from 18 percent of all initial DI awards in 1983 to 54 percent in 2010. This increase corresponds to an increase in the number of DI cases where musculoskeletal and mental impairments were alleged and vocational evaluations are more likely to be required for these cases. Further, there were many policy changes in the 1980s stemming from court cases and legislation that directly affected how decision makers assessed functional capacity (See **pages 91–93**).

41. Variations in Basis for DI Initial Awards—Fiscal Year 2010

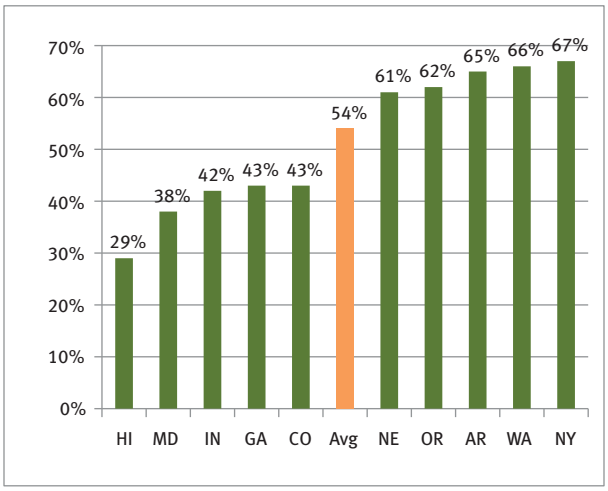
41a. Meets the Medical Listings



41b. Equals the Medical Listings

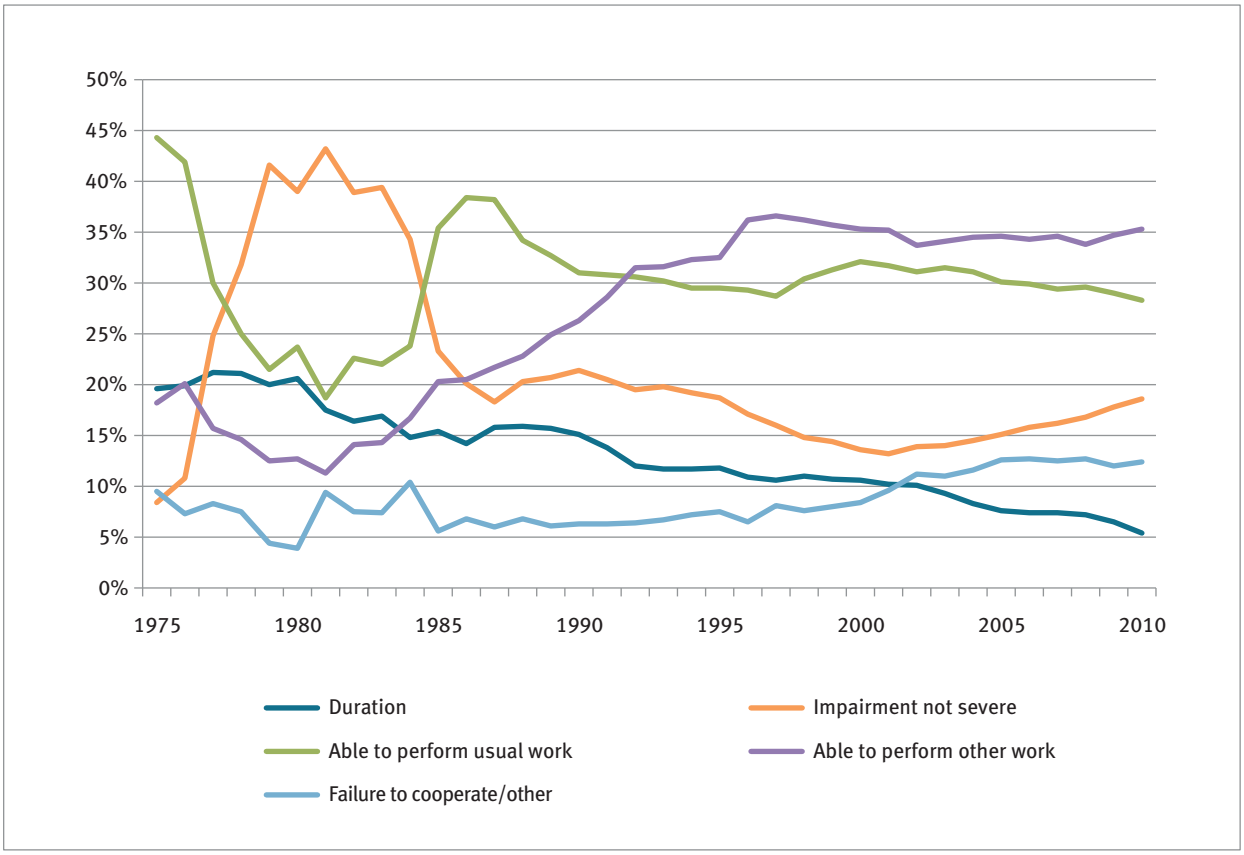


41c. Vocational Factors



These charts show the variation among State agencies in the basis for awarding benefits. For example, in 2010, Hawaii made 61 percent of its initial DI awards on the basis that the claimant met the medical listings, while New York made only 28 percent of its awards on that basis. On the other hand, New York made 67 percent of its DI awards based on vocational factors, while Hawaii made only 29 percent of its awards on that basis.

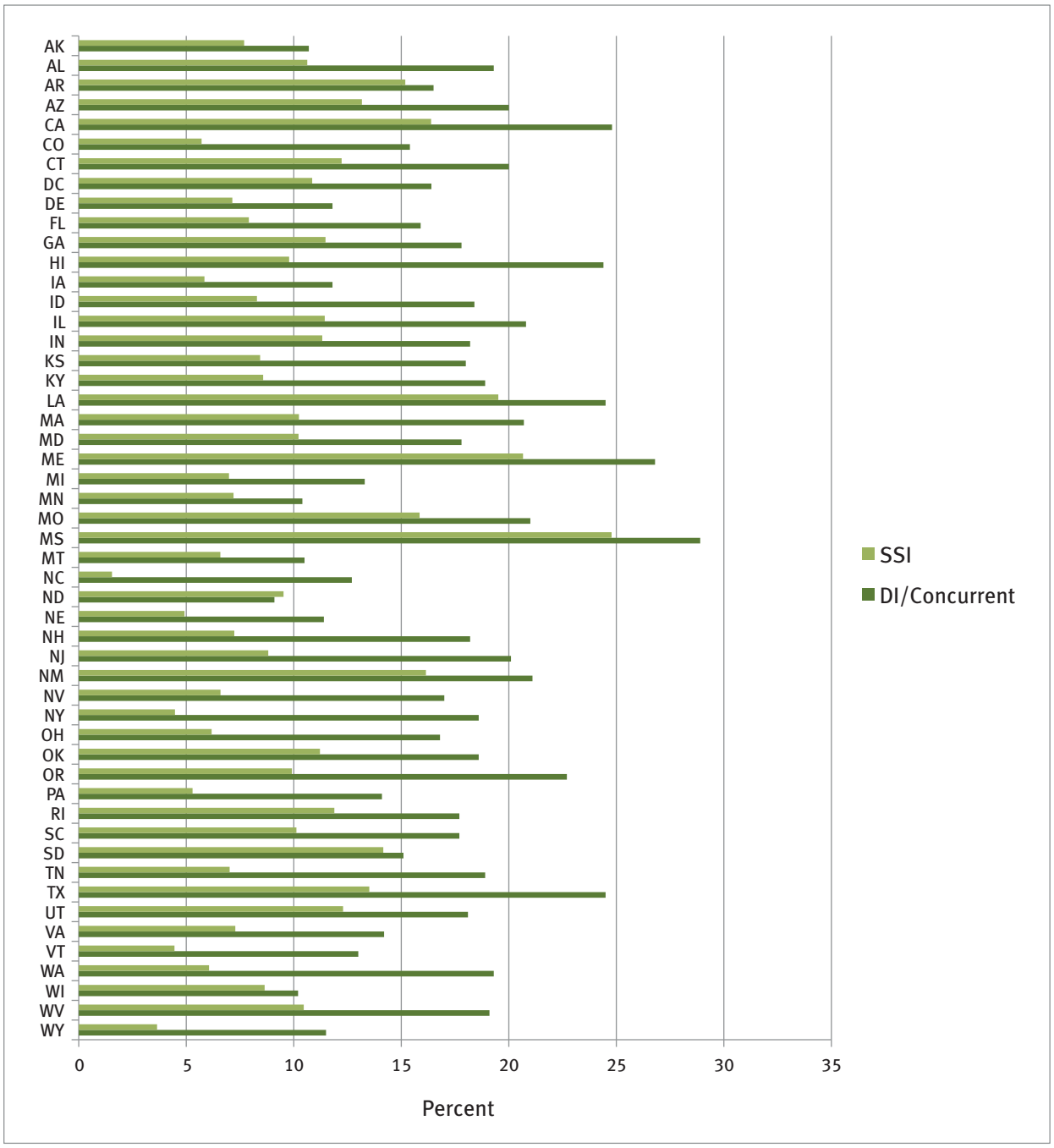
42. DI State Agency Initial Denials by Basis for Decision—Fiscal Years 1975-2010



The reasons for denials by State agencies have varied widely over the years. Denials for non-severe impairments went from 8 percent of denials in 1975 to 43 percent in 1981 to 19 percent in 2010. Some of the decline in not severe determinations in the mid-1980s may have been the result of several circuit court cases that challenged how SSA was applying the standard.

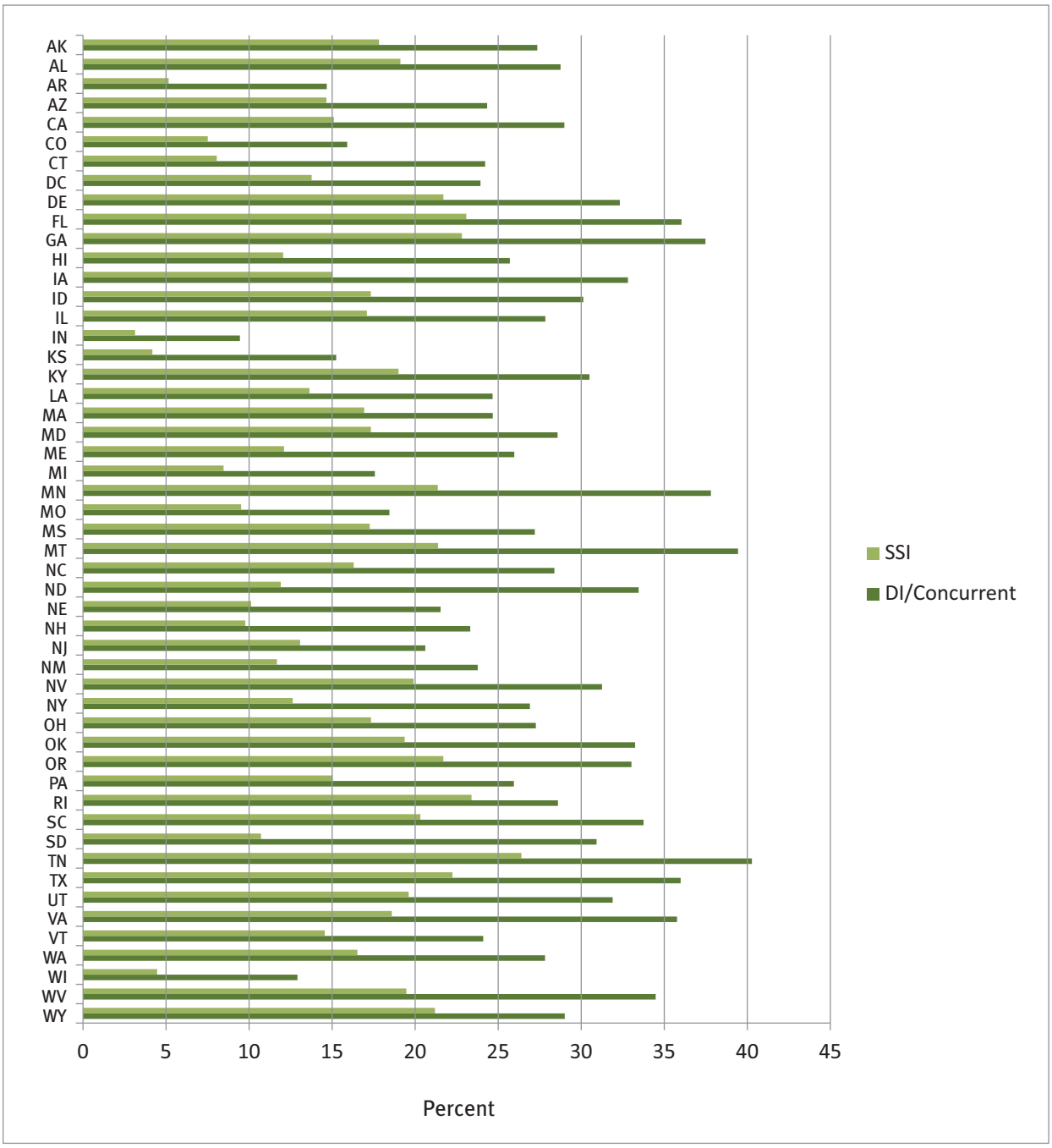
Initial denials based on vocational factors showed significant variation until about 1995. Denials for ability to perform the claimant's usual work went from 44 percent of denials in 1975 to 19 percent in 1981 to 29 percent in 1995 and then leveled off at about 30 percent through 2010. Denials for ability to perform other work – the most complex and judgmental denials – went from 18 percent in 1975 to 11 percent in 1981 to 33 percent in 1995 and then remained at around 35 percent through 2010.

43. Percentage of State Agency Initial Denials Based on Non-Severe Impairment—Fiscal Year 2010



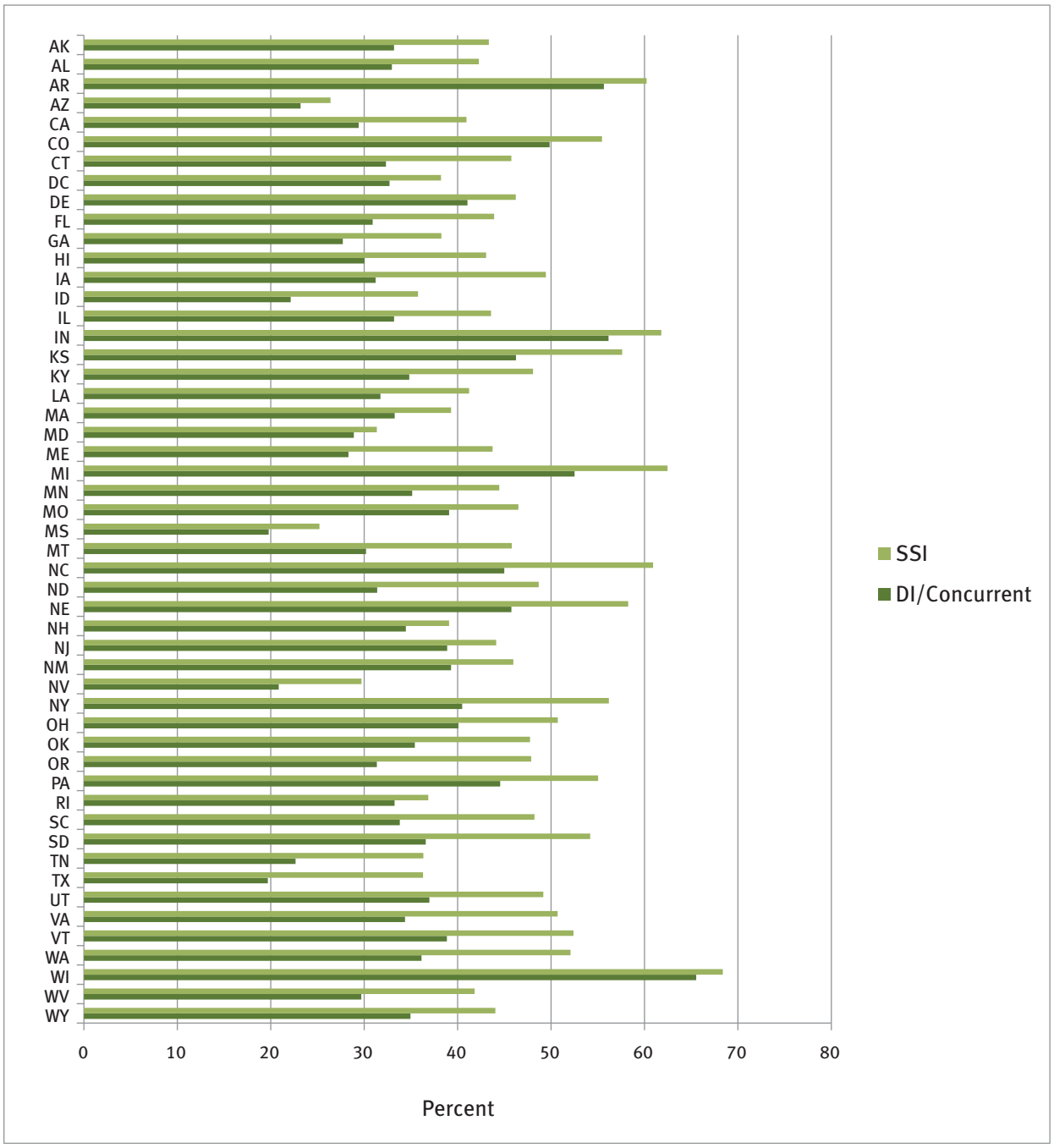
One of the early steps in the sequential evaluation of disability is the determination of whether an impairment is severe. For DI and concurrent DI-SSI applications, denials for this reason in 2010 ranged from 9 percent of all denials in North Dakota to 29 percent in Mississippi. For SSI adult applications, denials for this reason ranged from 2 percent in North Carolina to 25 percent in Mississippi.

44. Percentage of State Agency Initial Denials Based on Ability to Perform Usual Work—Fiscal Year 2010



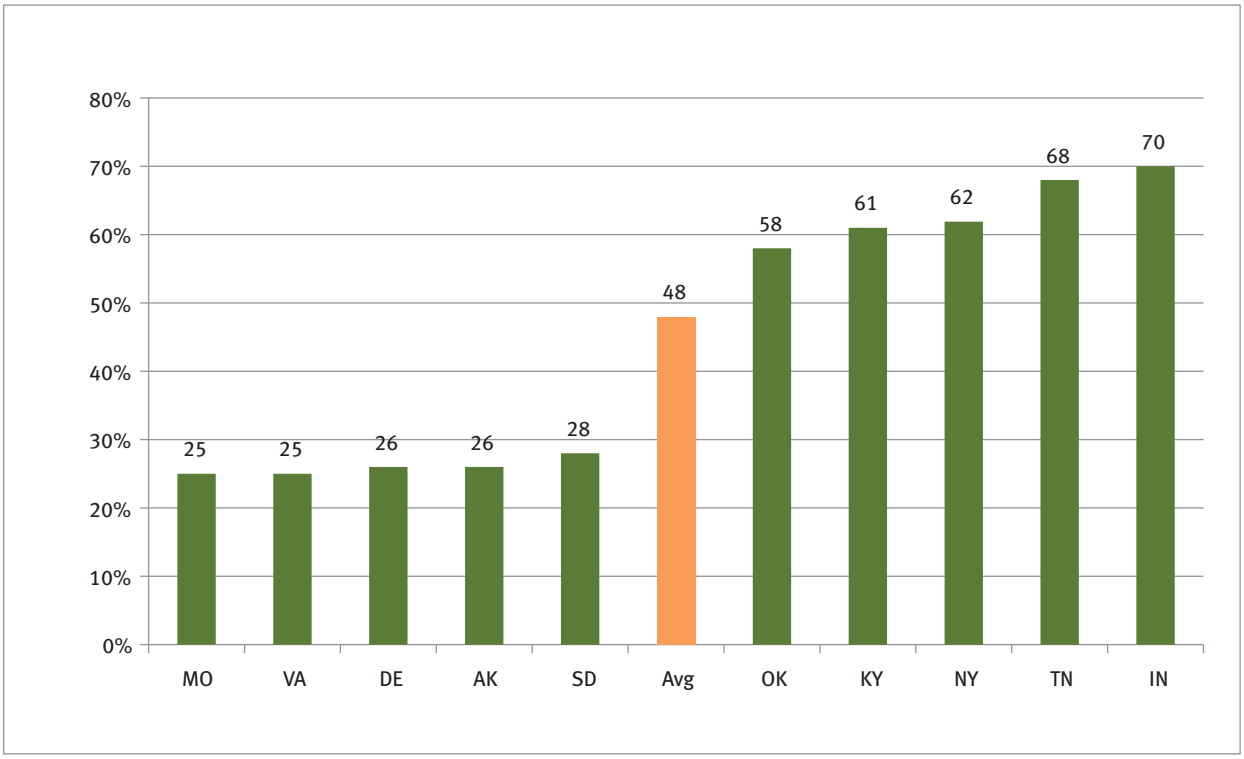
At a later step in the sequential evaluation of disability, the disability examiner determines whether the claimant can perform his or her usual work. For DI and concurrent applications, denials for this reason in 2010 ranged from 9 percent of all denials in Indiana to 40 percent in Tennessee. For SSI adult applications, denials for this reason ranged from 3 percent in Indiana to 26 percent in Tennessee.

45. Percentage of State Agency Initial Denials Based on Ability to Perform Other Work—Fiscal Year 2010



At the final step in the sequential evaluation, the disability examiner determines whether the claimant can do work other than his or her usual past work. For DI and concurrent applications, denials for this reason in fiscal year 2010 ranged from 20 percent of all denials in Texas to 66 percent in Wisconsin. For SSI adult applications, denials for this reason ranged from 25 percent of all denials in Mississippi to 66 percent in Wisconsin.

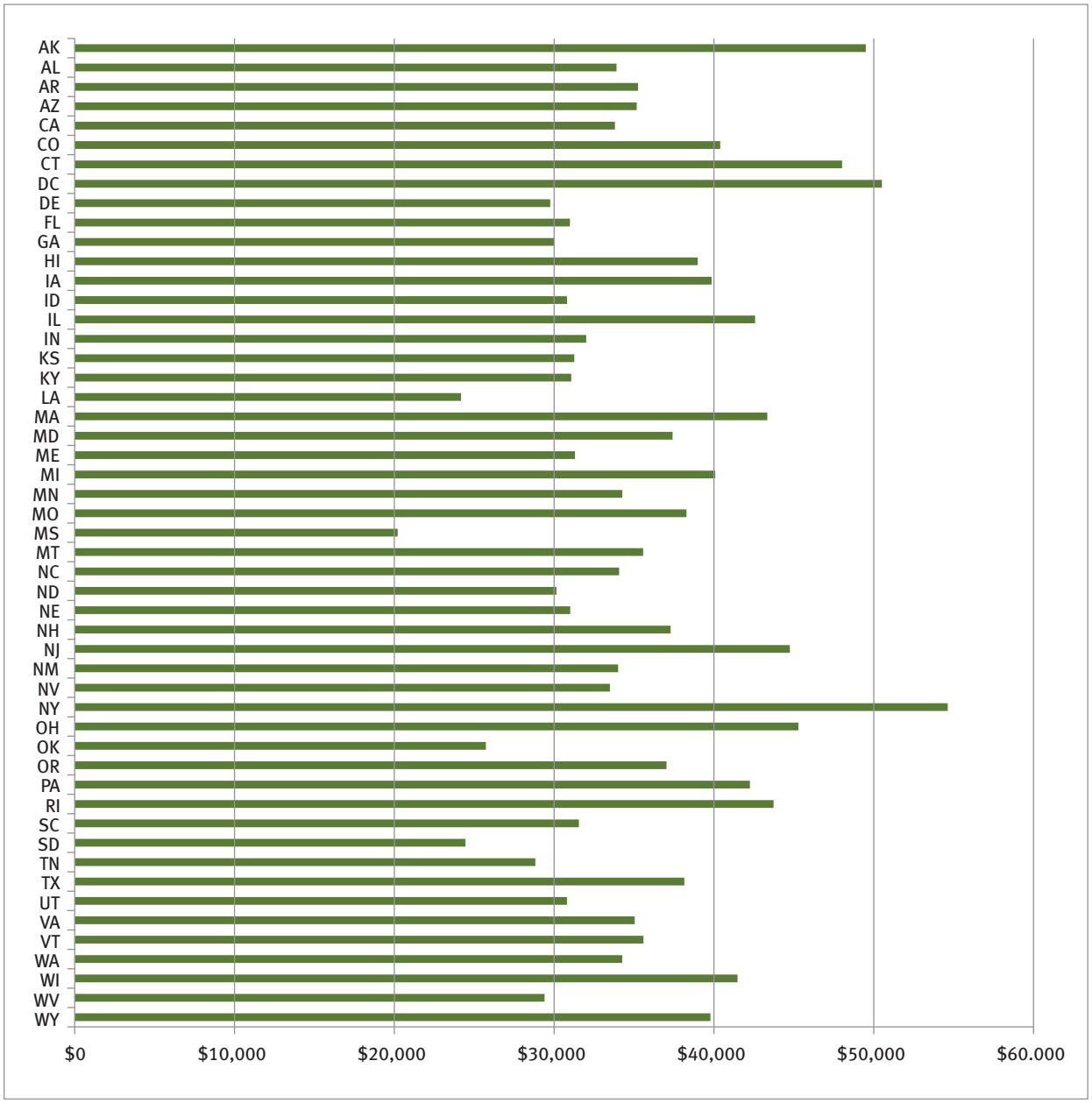
46. Percentage of Initial Level Claims with Consultative Examinations—Fiscal Year 2010



To supplement medical evidence of record or when such evidence is not available, DDSs purchase consultative examinations. In fiscal year 2010, the use of consultative examinations for initial SSDI and SSI disability decisions ranged from 25 percent in Missouri to 70 percent in Indiana. The national average was around 48 percent.

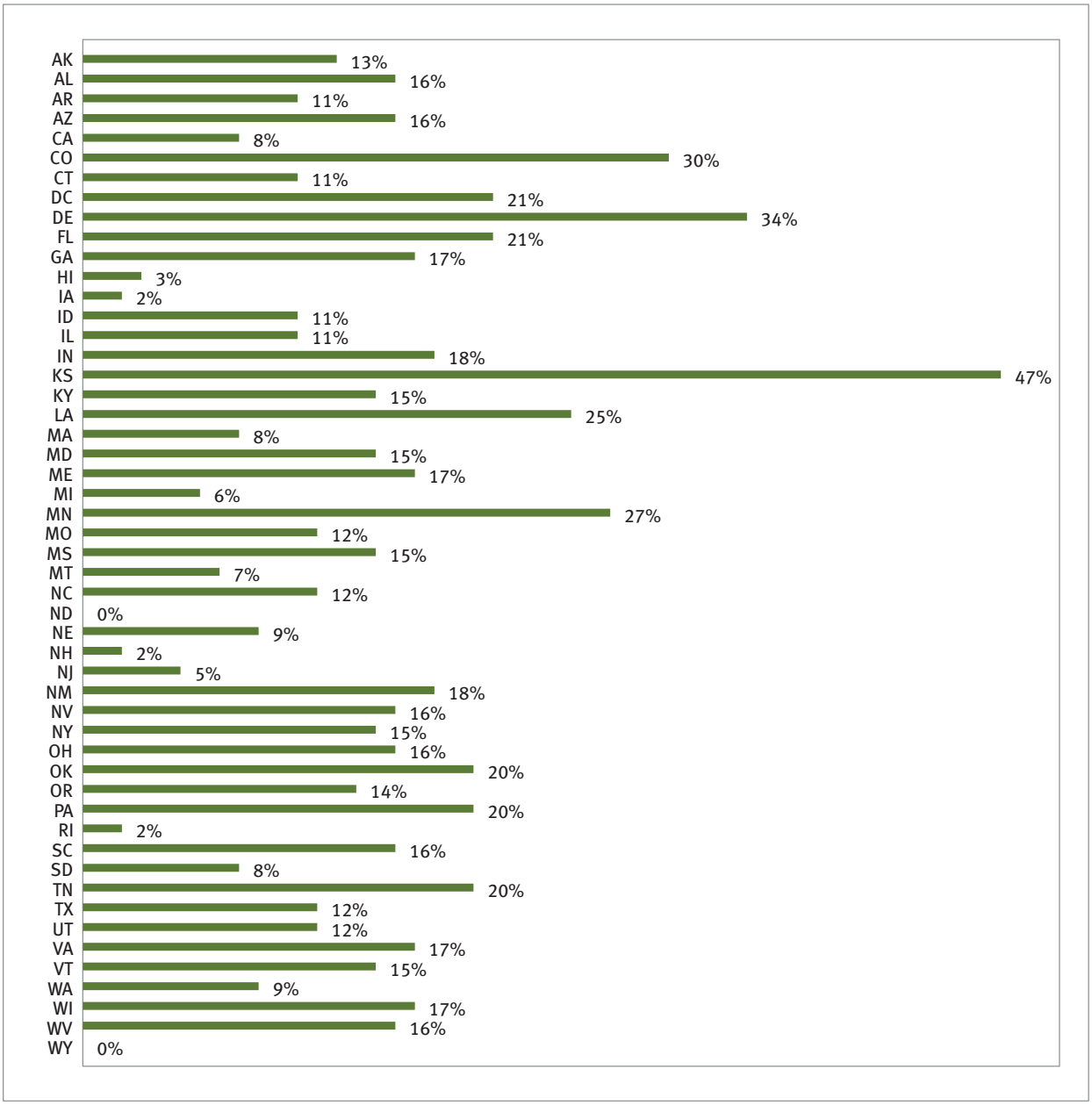
H. State Administrative Arrangements

47. Minimum Salary Levels for Initial Level State Agency Disability Examiners—Fiscal Year 2009



Minimum salary for full time non-trainee initial disability examiners varied in 2009 from $20,210 in Mississippi to $54,628 in New York. Examiners are state employees, and their salaries are set by the States not SSA.

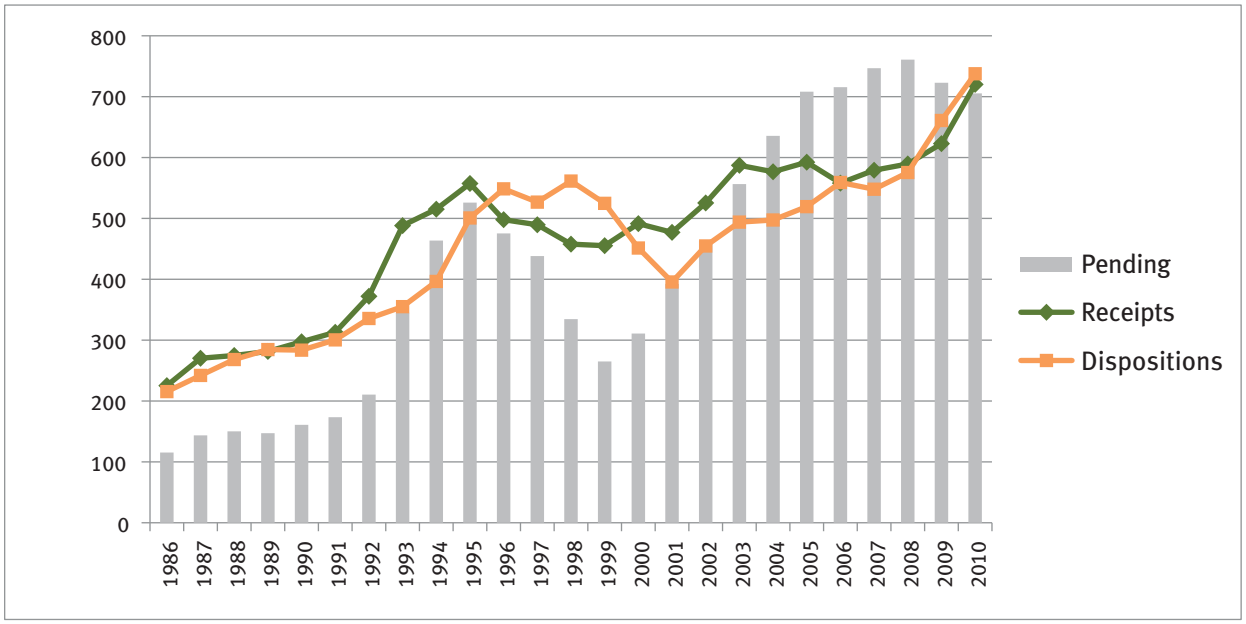
48. Attrition Rates for State Agency Full Time Examiners—Fiscal Year 2010



In 2010, the nationwide attrition rate for full time disability examiners at the State DDSs was 14.5 percent. The range went from zero in North Dakota and Wyoming to 47 percent in Kansas. The rate can vary widely from year to year especially in small States, where a few losses amount to a large percentage. Some States have historically high rates due to low salaries, and examiners may be hired away by companies in disability-related fields that pay higher salaries. In addition, many States are experiencing a retirement wave as long-tenured employees are starting to leave the work force. For purposes of comparison, Office of Personnel Management data for fiscal year 2010 show an overall separation rate (including transfers) of 11 percent for the Federal executive branch and 8.5 percent for the Social Security Administration.

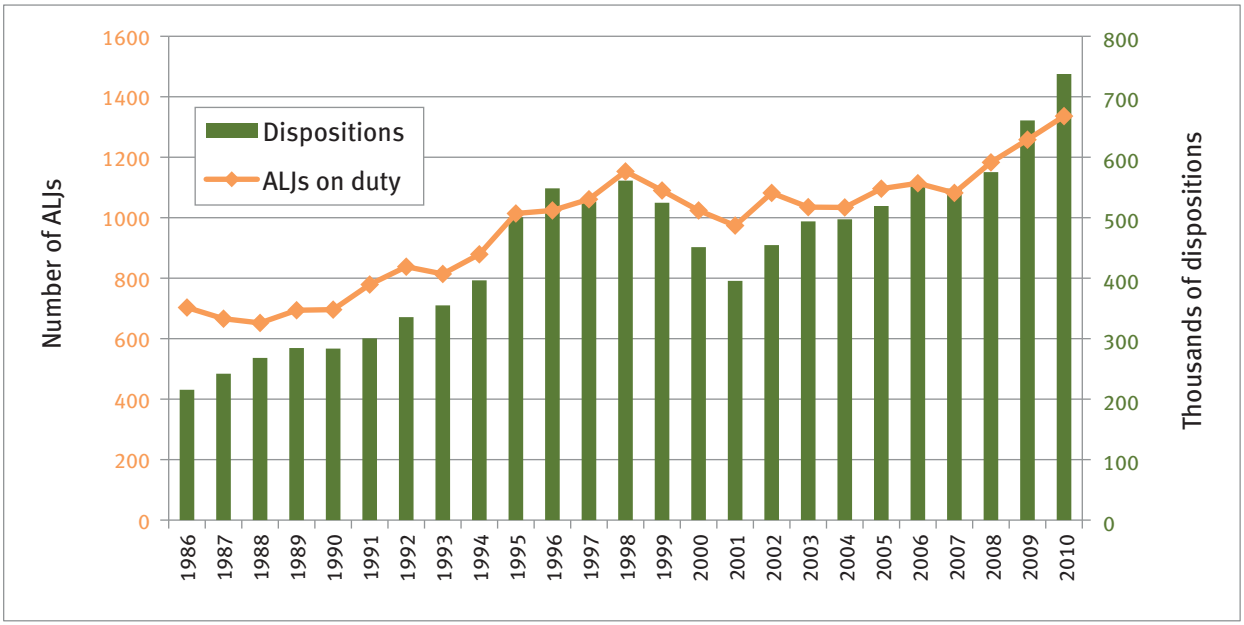
I. Hearings and Appeals

49. Hearing Level Workloads—Fiscal Year 1986-2010



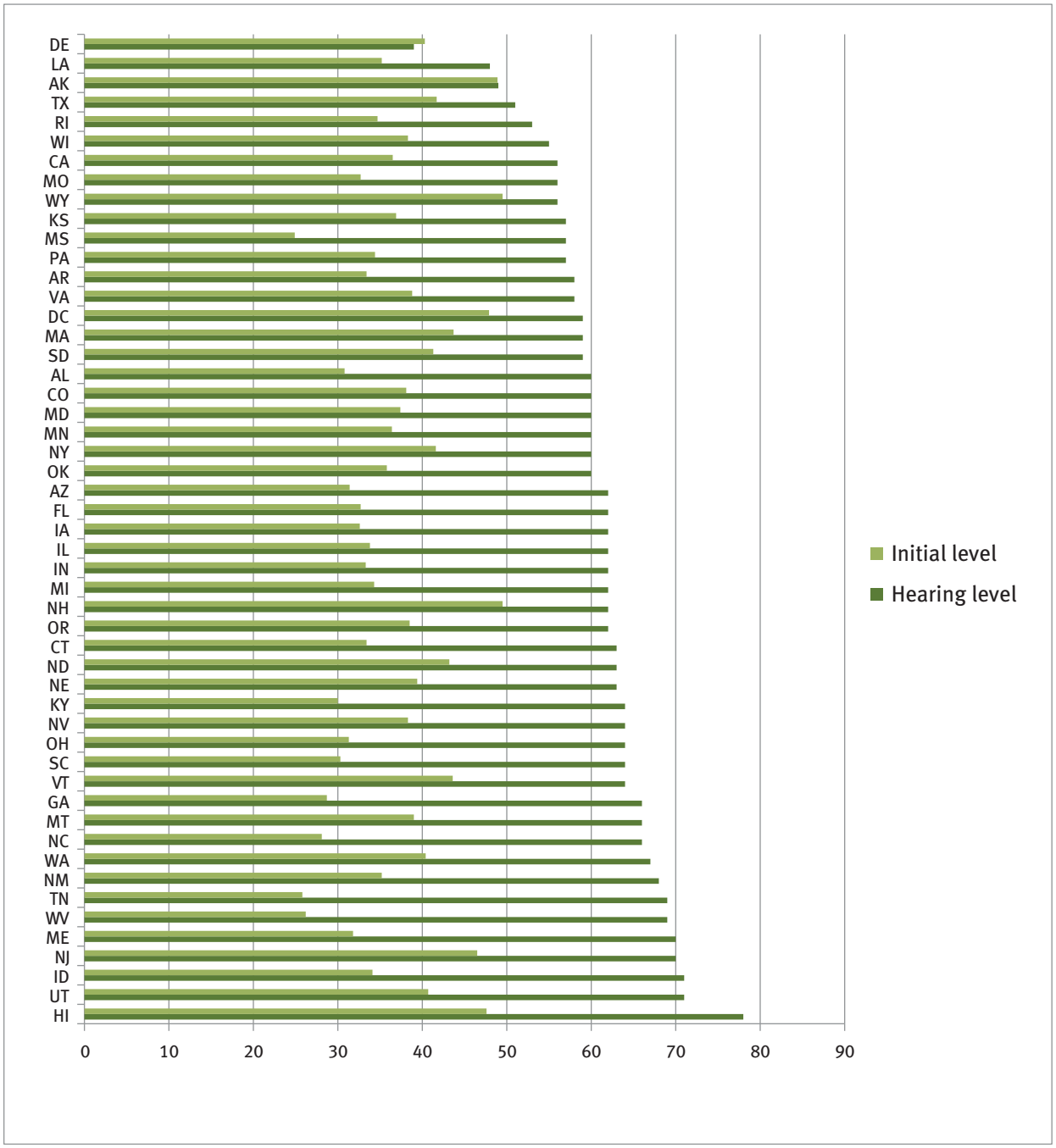
This chart shows the number of requests for new hearings, the number of hearing dispositions (which includes decisions and dismissals), and the number of cases pending a disposition for years 1986 to 2010. For much of the period since 2000, receipts outpaced dispositions, leading to a significant backlog of cases pending in hearing offices. Beginning in 2007, SSA implemented a backlog reduction plan that led to an increased number of dispositions. As a result, for the last two years, dispositions have exceeded receipts, and the pending workload has declined.

50. Dispositions and ALJs on Duty—Fiscal Years 1986-2010



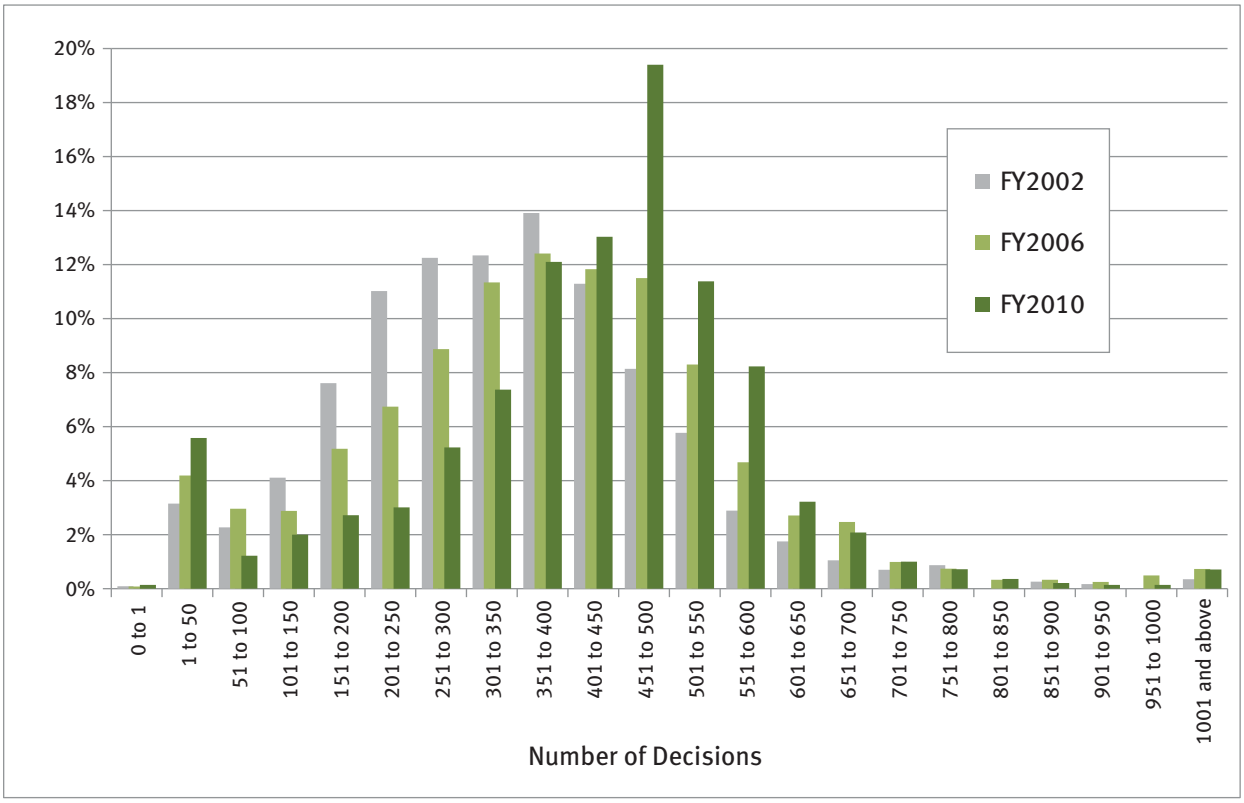
The number of dispositions per year, shown on the right axis, has tracked fairly closely the number of ALJs on duty, shown on the left axis. From 1999 to 2003 (with a one-time exception in 2002), SSA was unable to hire ALJs because of *Azdell v. James*, a lawsuit that arose out of changes that the Office of Personnel Management (the agency that has responsibility for the initial examination, certification for selection, and compensation of ALJs) made in 1996 to the scoring formula that is used to rate and rank potential ALJs. Even after the lawsuit was resolved in 2003, OPM did not open its hiring process to new applicants until 2007. Since 2007, SSA has added 254 new ALJs.

51. Allowance Rates at Initial and Hearing Levels by State—Fiscal Year 2010



There is a wide range from State to State in the hearing level allowance rates on disability claims. In 2010 favorable decision rates ranged from 39 percent in Delaware to 78 percent in Hawaii. These percentages show allowances as a percentage of overall case dispositions, and include dismissed cases. There is no overall correlation by state between the initial level and the hearing level allowance rates.

52. Percentage Distribution of ALJ Decisions in Fiscal Years 2002, 2006, and 2010

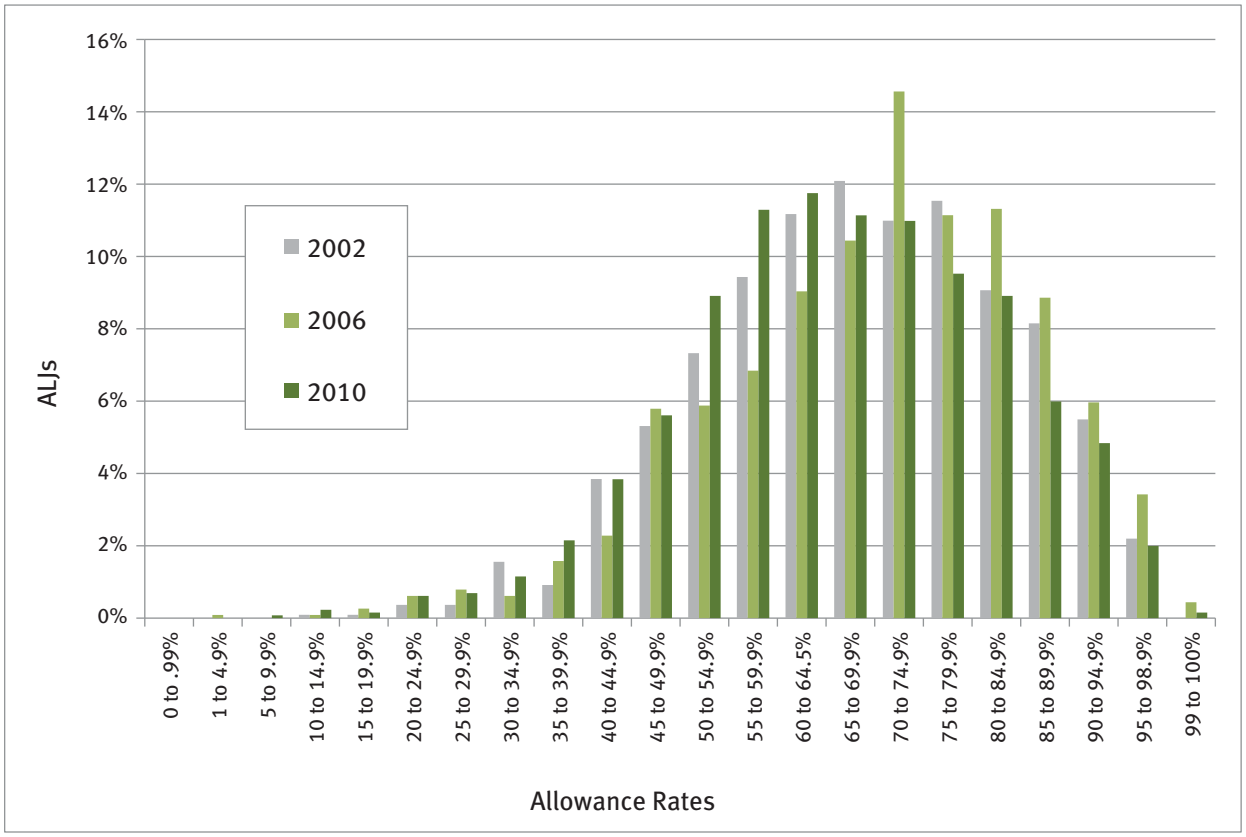


This chart shows, for fiscal years 2002, 2006, and 2010, numeric ranges of ALJ-issued decisions, and the percentage of ALJs who fall in each range. For example, in 2002, 5.8 percent of the ALJs issued between 501 and 550 decisions; in 2006, the percentage of ALJs in that range went up to 8.3 percent; and in 2010, the percentage went up to 11.4 percent. The average number of decisions per ALJ was 343 in 2002, 358 in 2006, and 394 in 2010.

SSA established guidelines in 2007 that asked each ALJ to issue 500 to 700 hearing decisions per year. In 2002, only 158 ALJs (14 percent) issued more than 500 decisions. By 2010, 394 ALJs (28 percent) issued in excess of 500 decisions. The dramatic increase in decisions in fiscal year 2010 in the 451-500 range most likely reflects the ALJs' growing adherence to the new guidelines.

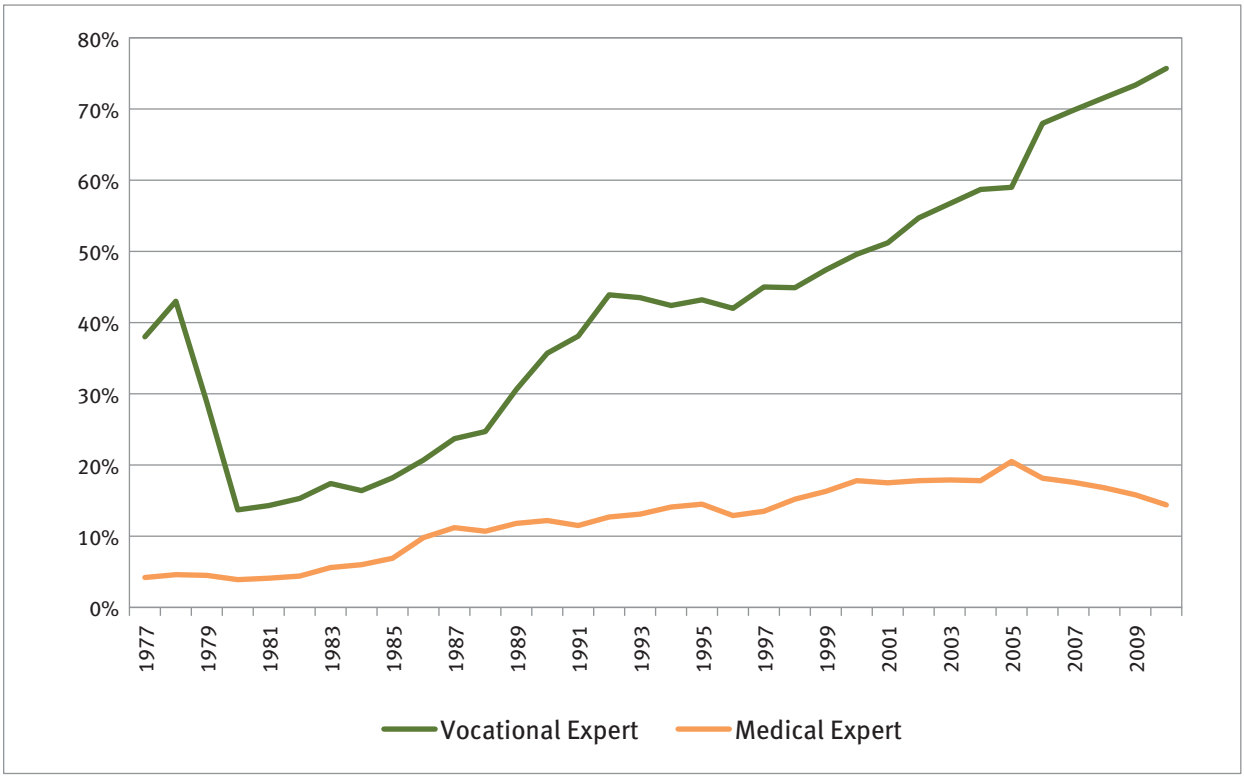
The percentage of ALJs issuing fifty or fewer decisions has also increased but this probably represents newly hired ALJs in those years who had less than a full year on the job.

53. Percentage Distribution of ALJ Allowance Rates in Fiscal Years 2002, 2006, and 2010



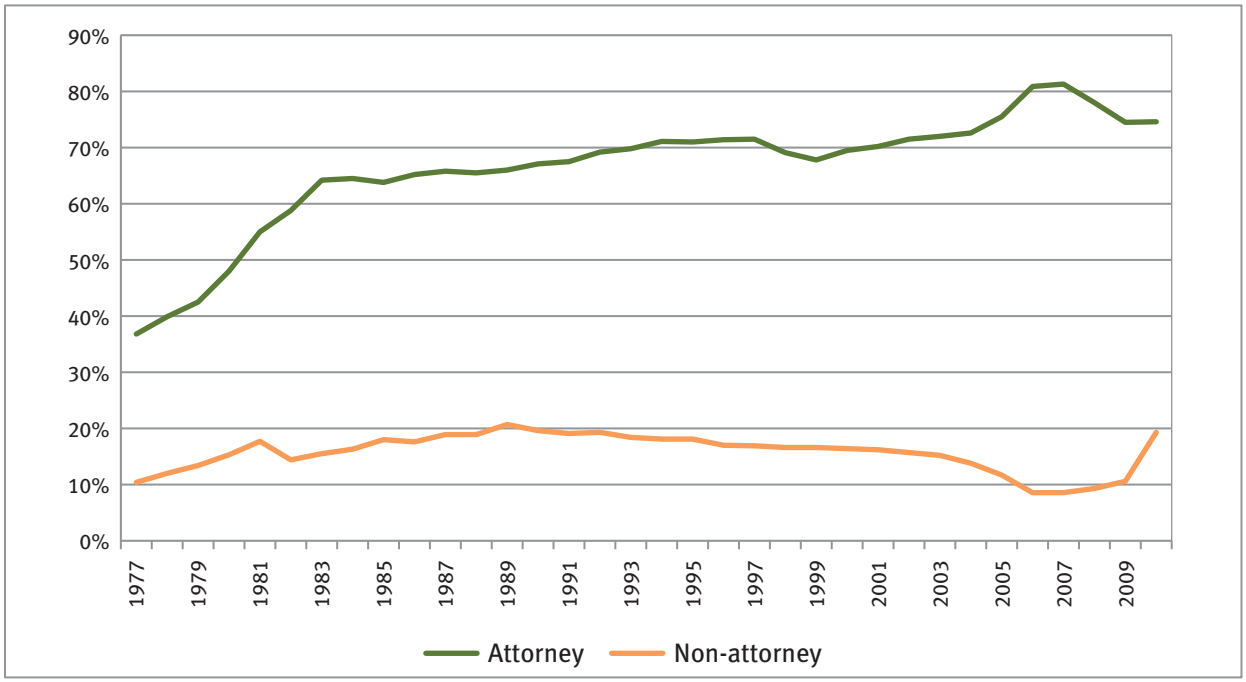
This chart shows the ranges of ALJ allowance rates in fiscal years 2002, 2006, and 2010 and the percentage of ALJs within those ranges. For example, in 2002, 11.4 percent of ALJs had allowance rates between 71 percent and 75 percent; in 2006, 14.7 percent were in that range; and in 2010, it was 10.6 percent. The average ALJ allowance rate was 66 percent in 2002, 68 percent in 2006, and 65 percent in 2010.

54. Medical and Vocational Expert Participation in ALJ Hearings—Fiscal Years 1977-2010



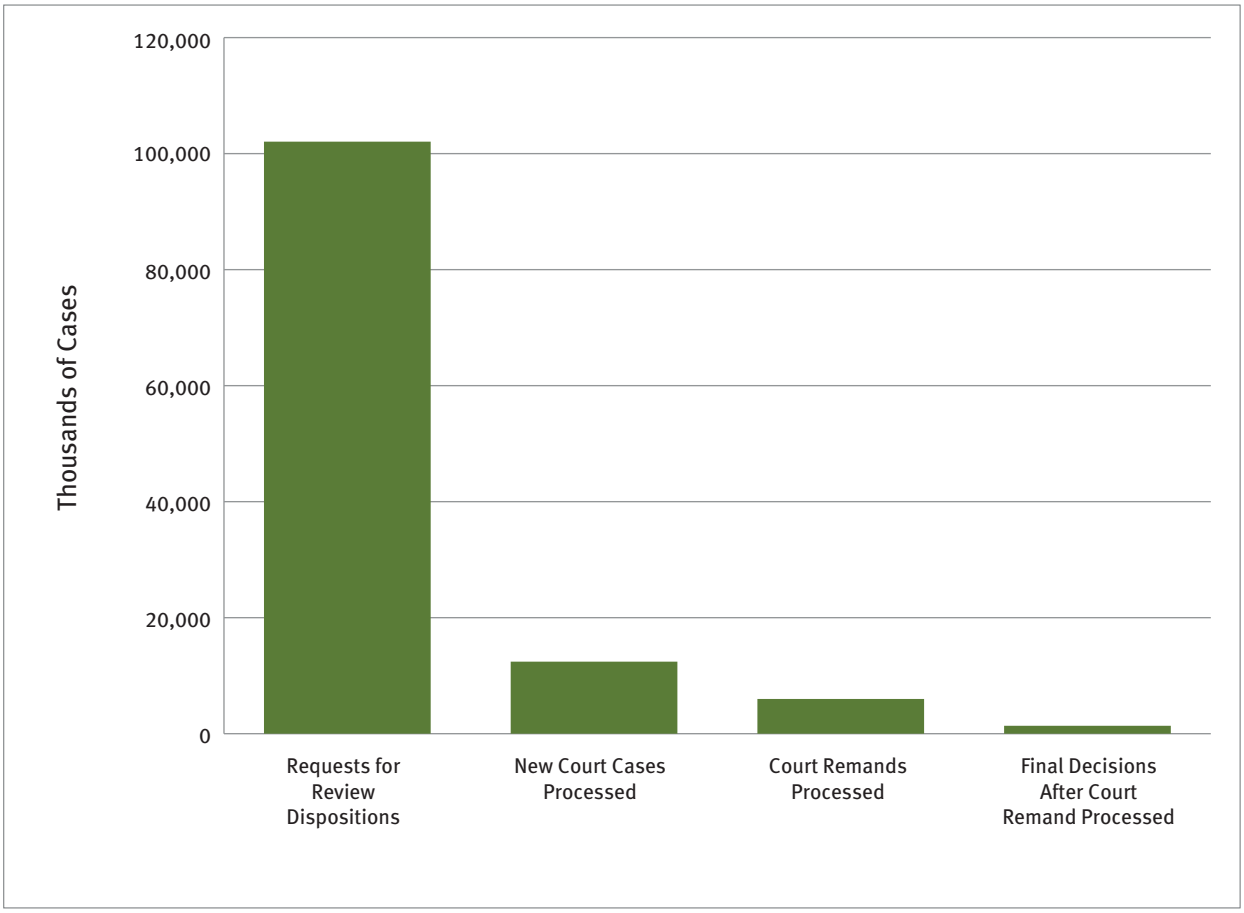
The use of vocational experts by ALJs has increased greatly since 1980, and they are now used in about three-fourths of all ALJ hearings, even though they rely on an outdated *Dictionary of Occupational Titles* to support their testimony. (The adoption of vocational regulations (SSR 82-41) in 1979 was supposed to reduce their use. Later court decisions and regulatory changes, however, contributed to increased use.) Over the same period, the use of medical experts grew from about 4 percent in 1977 to a high of about 20 percent in 2005. ALJs now use medical experts in about 14 percent of their cases.

55. Cases with Representation at ALJ Hearings—Fiscal Years 1977-2010



The percentage of DI and SSI claimants represented by attorneys at ALJ hearings has doubled since 1977, while the use of non-attorney representatives has stayed in the 10-20 percent range, although it has seen a steady increase since 2007. The figures for attorney and non-attorney representatives are not additive since some claimants may have both.

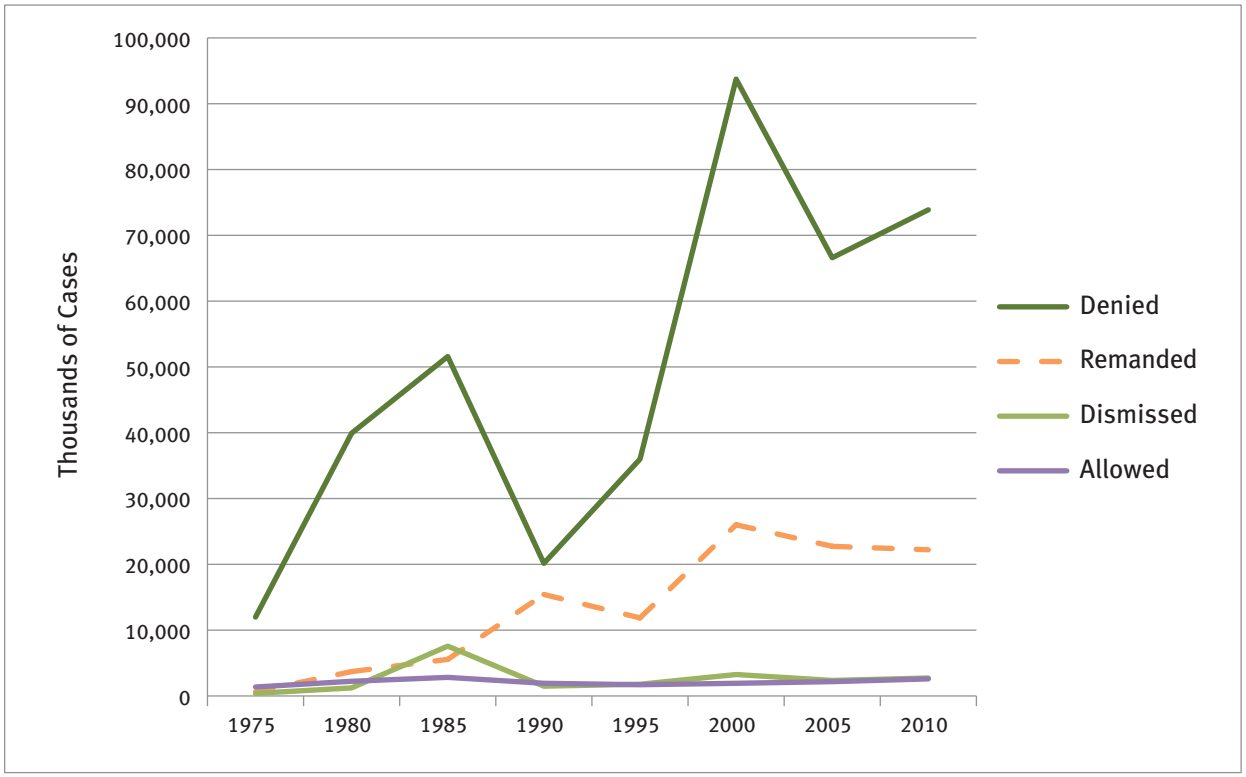
56. Appeals Council Workloads—Fiscal Year 2010



In addition to dealing with requests for review, i.e., the appeals of hearing level decisions, the Appeals Council:

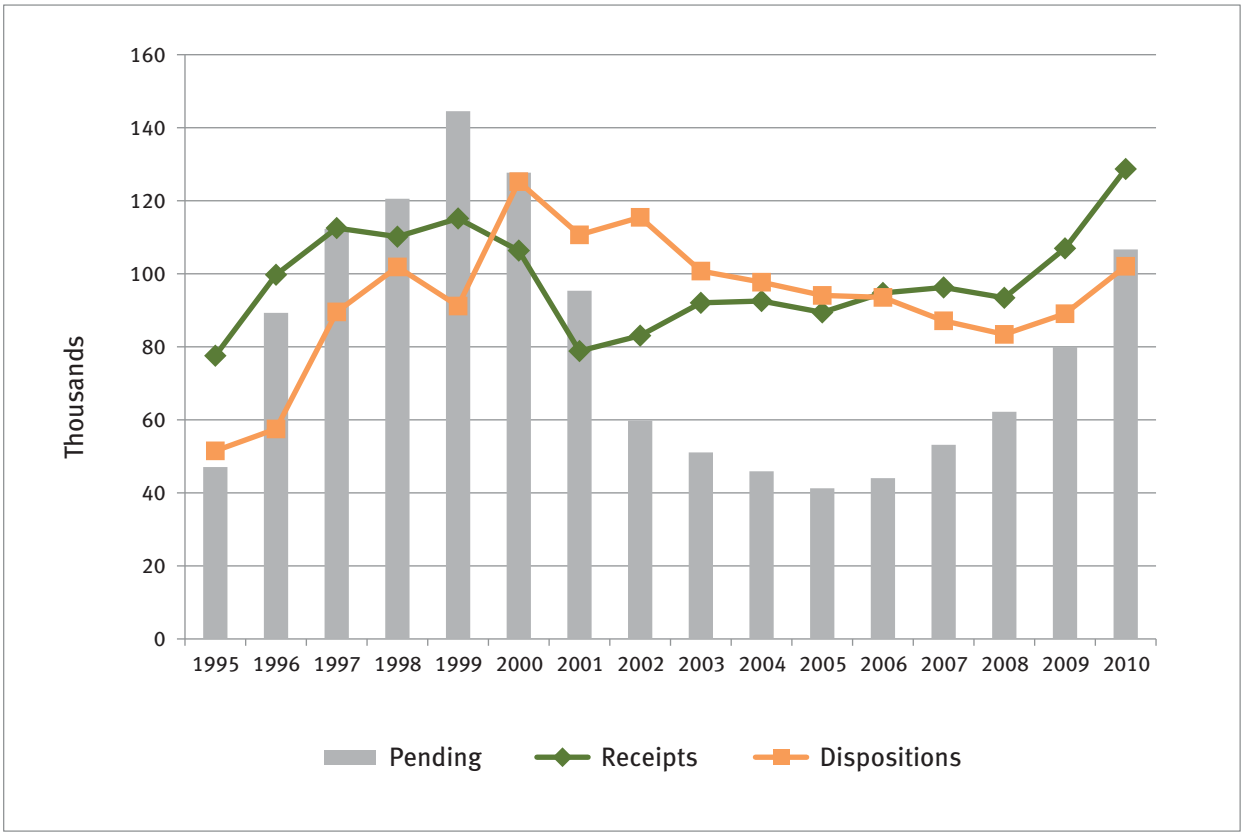
- reviews new court cases to determine whether they should be defended on the record or whether the Commissioner should seek a voluntary remand, and prepares the certified administrative record for new court cases of appealed SSA decisions;
- processes remands from the courts; and
- reviews final court decisions and makes recommendations as to whether appeal should be sought.

57. Appeals Council Dispositions—Fiscal Years 1975-2010



Over the years, most of the cases handled by the Appeals Council have been either denied or remanded back to the ALJ hearing level. The increase in dispositions through 2000 reflects a marked increase in the number of requests for Appeals Council review beginning in 1996 through 2000. As the number of cases being reviewed as grown, so has the number of cases being remanded back to the ALJs. However, the percentage of remands has declined from 40 percent of all Appeals Council dispositions in 1990, to 22 percent of dispositions in 2010.

58. Appeals Council Requests for Review—Fiscal Years 1995-2010

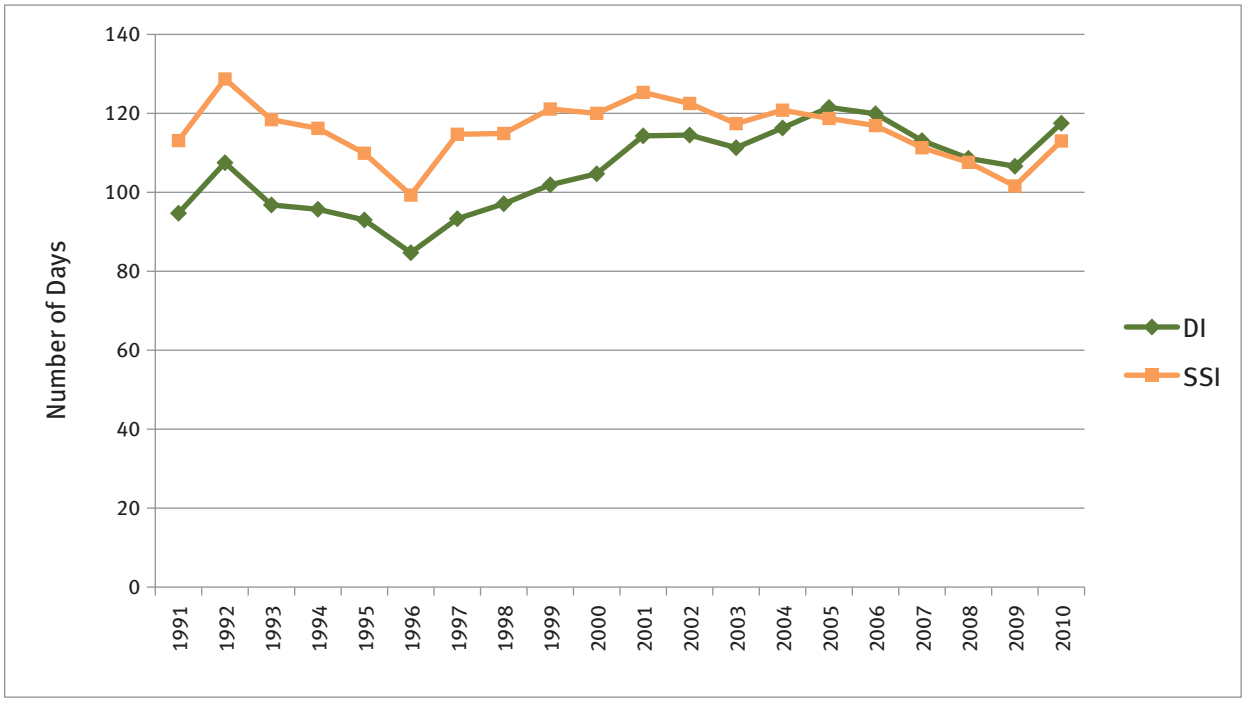


With receipts outpacing dispositions since 2007, the number of requests for review pending at the Appeals Council has been growing. This growth in receipts mirrors increases in the number of hearing receipts over the last several years (see **Chart 49**). At the end of 2010, the number of cases pending was at its highest level since 2000. Average processing time in 2010 was 345 days, its highest level since 2003.

Another function of the Appeals Council is to perform a quality review of a limited number of ALJ cases before the effectuation of the final decision. The data on quality reviews for the period shown in the chart above is incomplete as the reviews were started and stopped for a variety of reasons over the course of the last 30 years. A new pre-effectuation review started in 2011.

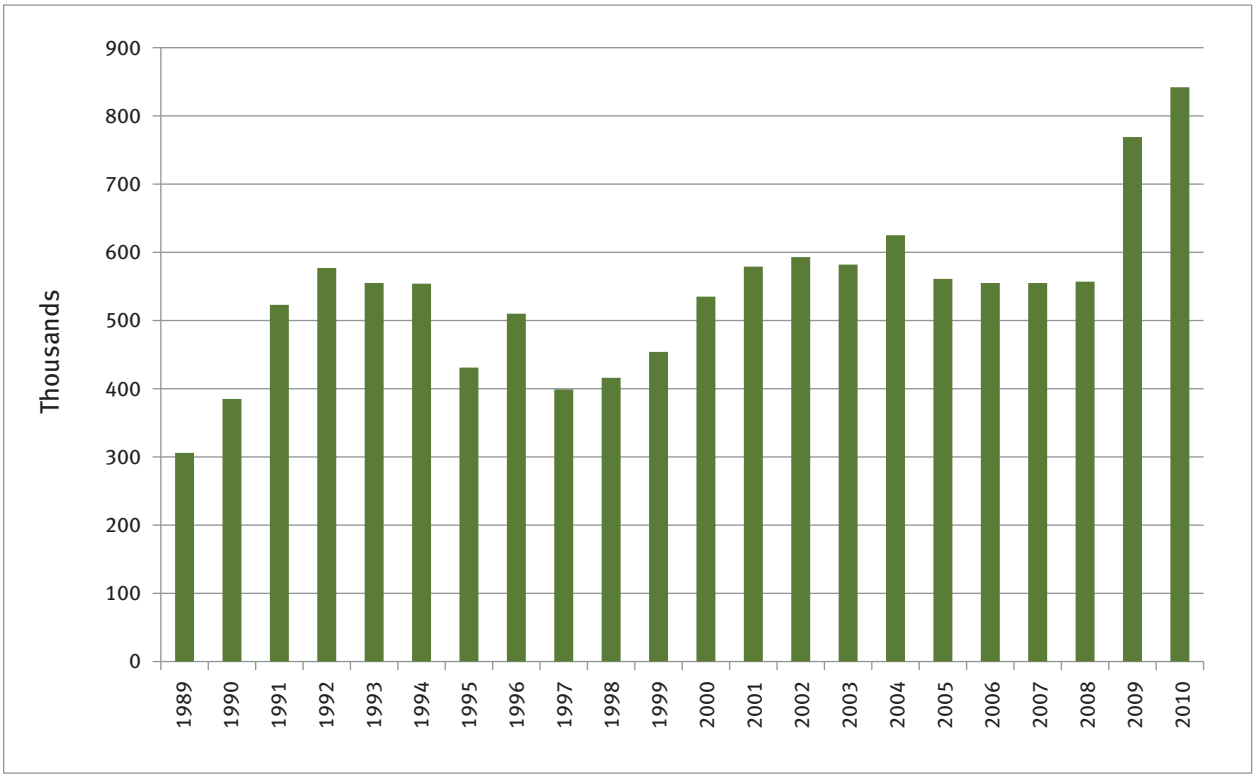
J. Processing Times

59. Average Initial Claim Processing Time—Fiscal Years 1991-2010



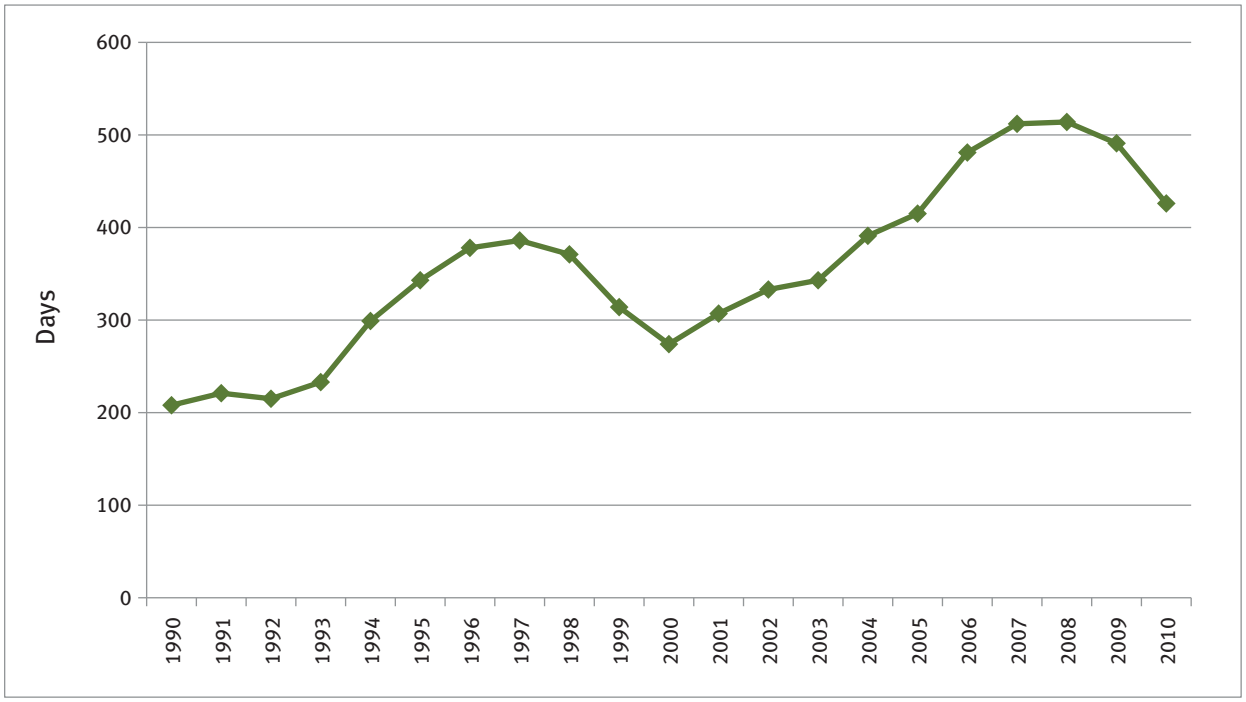
Processing time shown is the time from the date of the application to the date the award or denial notice is generated. It includes field office, processing center and State agency time. (Data on processing times is not available prior to 1991.)

60. DI and SSI Applications Pending in State Agencies at End of Year—Fiscal Years 1989-2010



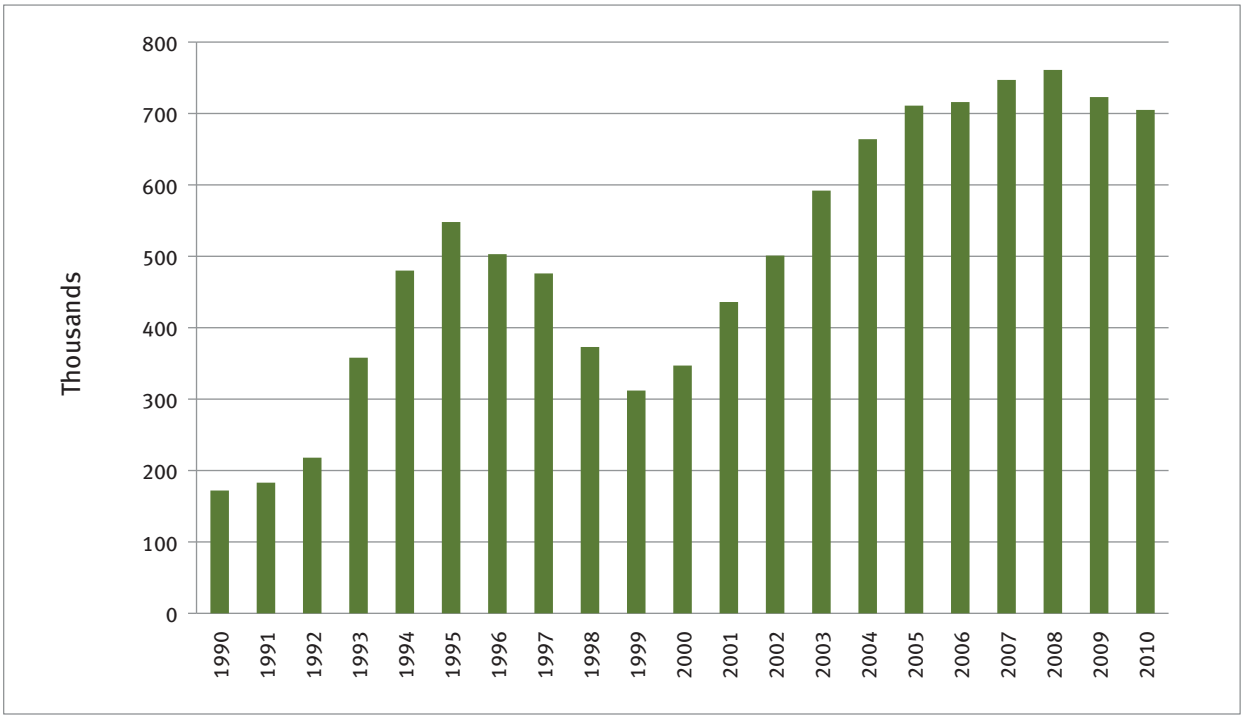
The number of claims pending at State agencies soared between 1989 and 1992, largely due to a recession, the Supreme Court's *Zebley* decision that liberalized the definition of eligibility for children, and changes in SSA's regulations for determining whether an individual has a disabling mental impairment. Although the pending workload declined briefly in the mid-1990s, it began to grow again in the late 1990s. The spike in the pending workload in 2009 and 2010 reflects the increase in initial claims due to economic conditions.

61. Average Hearing Level Processing Time—Fiscal Years 1990-2010



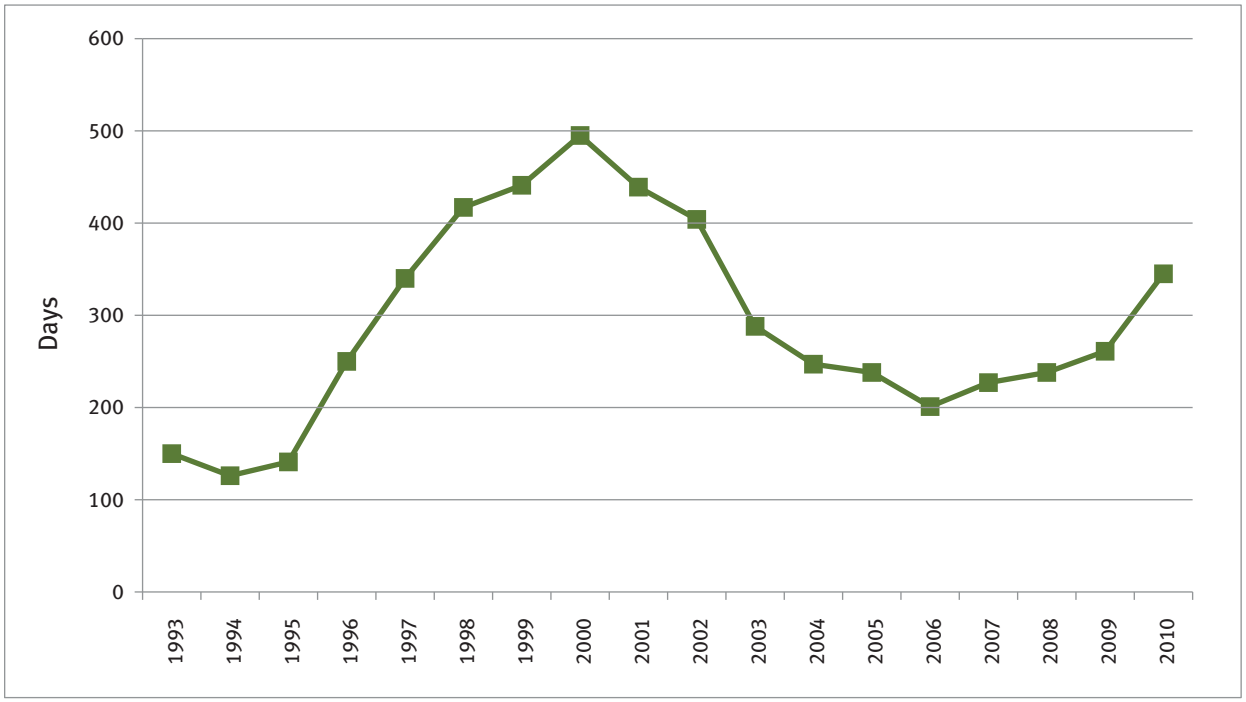
Average hearing office processing times for Social Security and SSI cases (nearly all of which are disability cases) soared in the mid-1990s, as the initial claims filed in the early 1990s made their way through the system. After falling to 274 days in 2000, processing times rose every year after that before beginning to fall again in 2009. The increase in processing times roughly corresponds to increases in the number of hearing receipts since 2001.

62. Cases Pending in Hearing Offices at End of Year—Fiscal Years 1990-2010



Mirroring the increase in processing times, the size of the pending workload in hearing offices rose steadily from 2000 through 2008 before falling in 2009 and 2010. Both processing times and pending levels are substantially higher than they were in the mid-1990s and before.

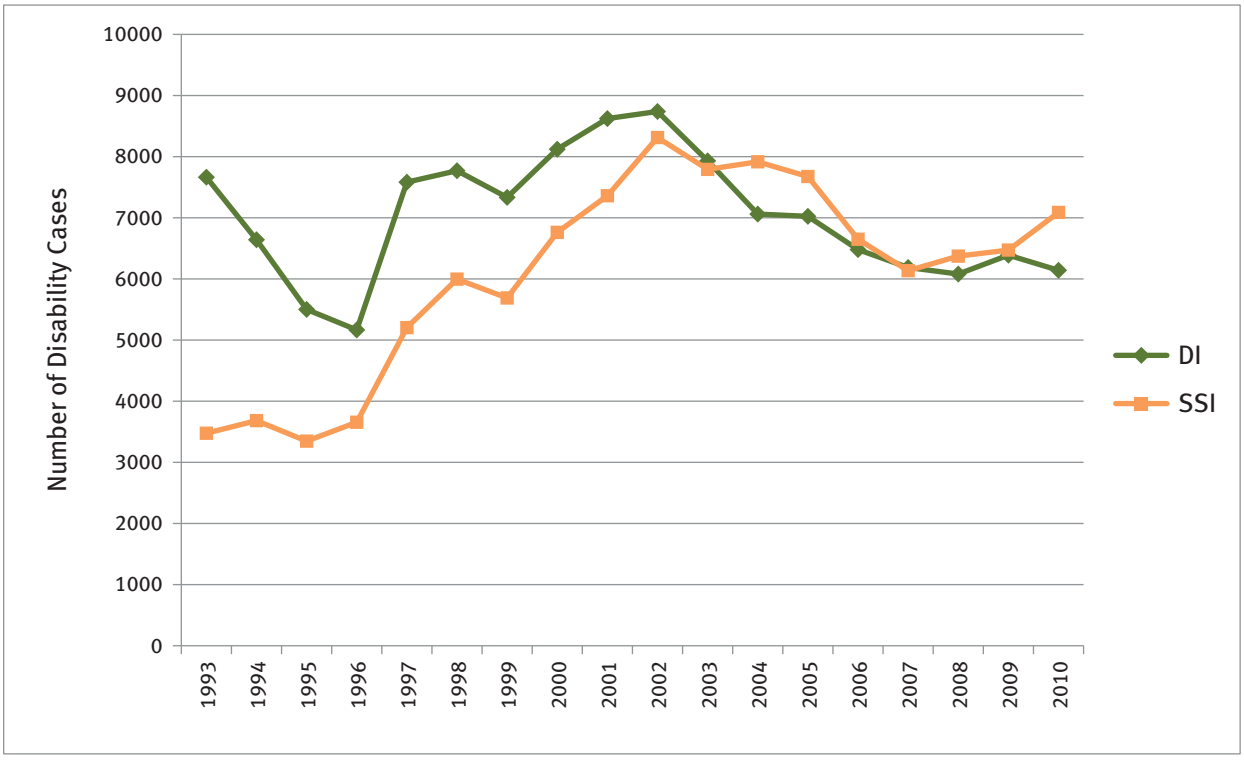
63. Appeals Council Processing Times—Fiscal Years 1993-2010



Appeals Council processing times have varied greatly over the years, increasing from 150 days in 1993 to close to 500 days by 2000, before falling back down to around 200 days in 2006. In 2010, average processing time at the Appeals Council level was 345 days, its highest level since 2003. (Data on processing times is not available prior to 1993).

K. Federal Courts

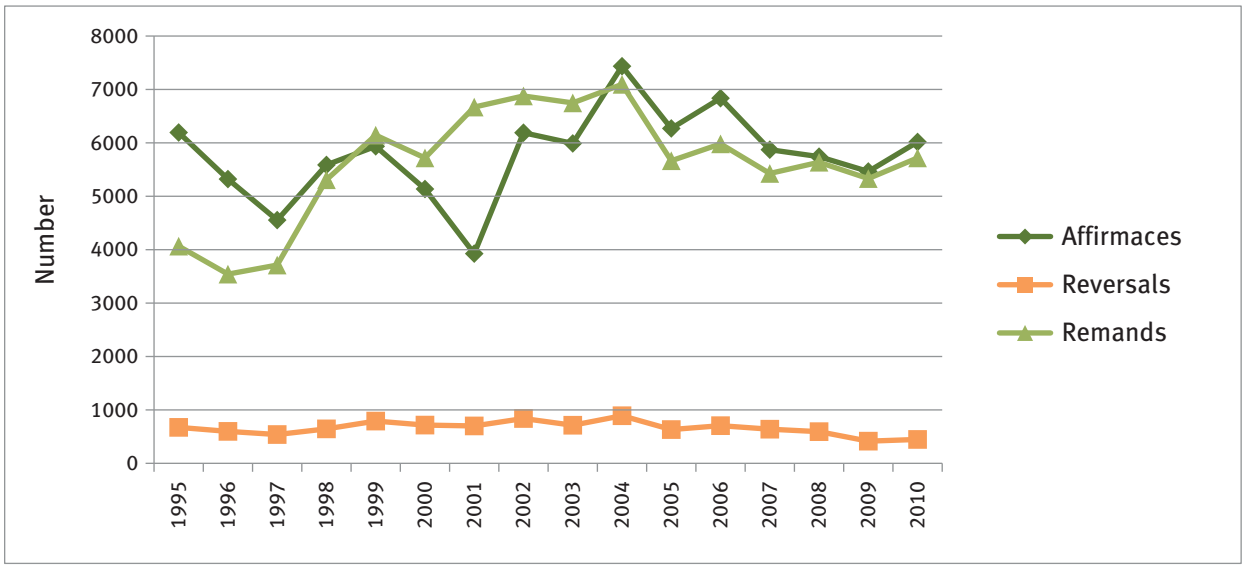
64. New Disability Cases Brought to Federal District Courts—Fiscal Years 1993-2010



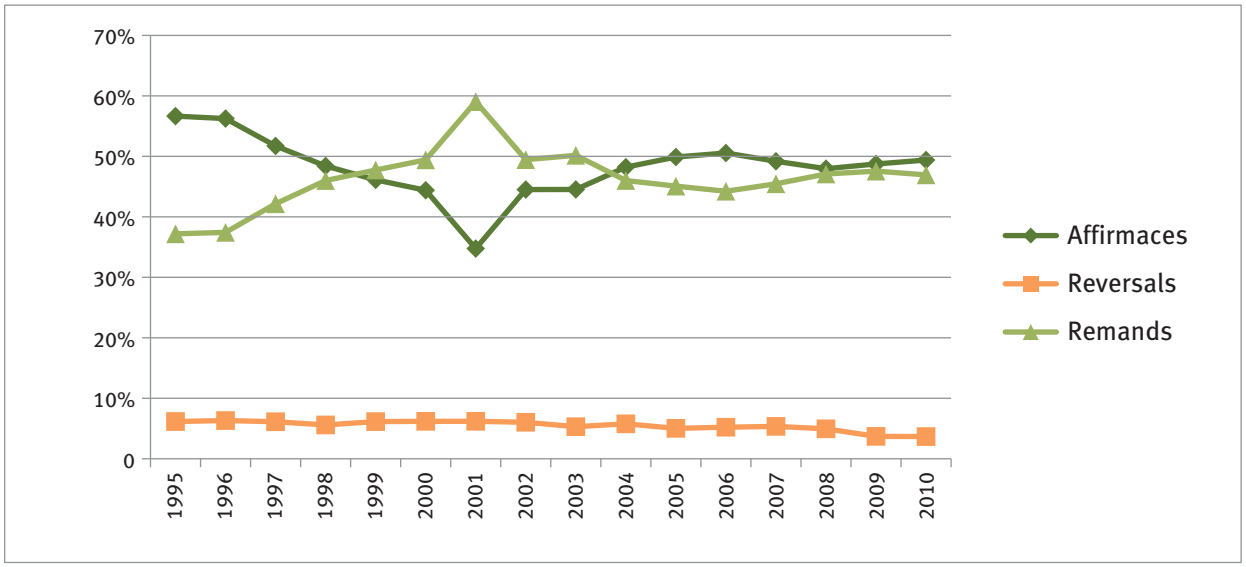
Generally, disability cases taken to Federal district courts have declined since 2002. In 2002 there were 17,052 new DI and SSI court cases, 6.2 percent of all new civil cases. In 2010 there were 13,229, 4.7 percent of all new civil cases. Although the number of cases increased in 2010, Social Security cases have represented less than 5 percent of the district courts' civil cases since 2007.

65. Federal District Court Actions—Fiscal Years 1995-2010

65a. Number of Federal District Court Actions, 1995-2010



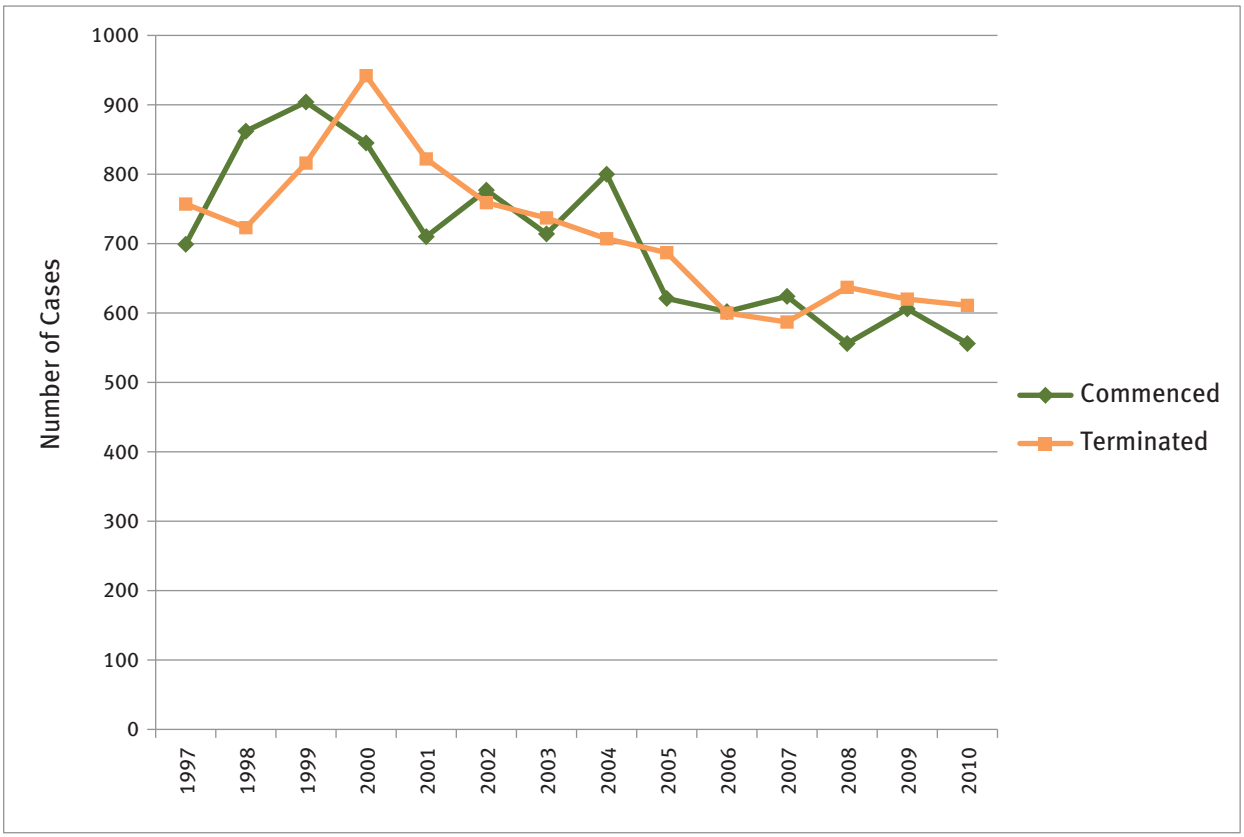
65b. Percent Distribution of Federal District Court Actions, 1995-2010



Since 1995, Federal courts have reversed relatively few agency decisions. The reversal rate was 6 percent or higher from 1995 through 2002, but since then it has dropped to less than 4 percent in 2009 and 2010.

Of the remaining cases, the courts affirm about half of SSA's decisions, and remand the other half back to the agency. A large percentage of cases remanded are subsequently allowed by SSA. Figures shown here include all Social Security program litigation, of which disability cases account for about 95 percent.

66. Social Security Cases Commenced and Terminated in U.S. Courts of Appeals—Fiscal Years 1997-2010



The number of Social Security cases appealed to the U.S. courts of appeals has varied somewhat over the years shown but has not exceeded 2 percent of all cases taken to those courts. *Commenced* refers to cases that are filed; *terminated* refers to cases that are actually decided.

L. Data Sources and Notes

1. Disability Insurance and Supplemental Security Income Disability Applications, Calendar Years 1975 to 2010

SSDI Applications & Insured Population data:
U.S. Social Security Administration, *Annual Statistical Supplement, 2011*, table 6.7C, http://www.ssa.gov/policy/docs/statcomps/supplement/2011/6c.html#table6.c7

U.S. Social Security Administration, Office of the Chief Actuary, data received January 2012.

SSI Applications & Poverty data:

U.S. Social Security Administration, *Annual Report of the Supplemental Security Income Program, 2011*, table IV.BI, May 2011.
http://www.ssa.gov/OACT/ssir/SSI11/Participants.html#676195

U.S. Census Bureau, *Current Population Survey*, table POV46, September 2011,
http://www.census.gov/hhes/www/cpstables/032011/pov/new46_100125_05.htm

2. Workers Insured for Disability Benefits, by Gender, Calendar Years 1975-2010

U.S. Social Security Administration, *Annual Statistical Supplement, 2011*, table 4.C2, http://www.ssa.gov/policy/docs/statcomps/supplement/2011/4c.html#table4.c2.

Percent of Population Age 15-64* Insured for Disability, 1970-2010:

U.S. Social Security Administration, Office of the Chief Actuary, data received January 2012.

*Population below full retirement age.

3. Disability Insurance Application Rates by State as a Percentage of State Population Ages 18-64, Calendar Year 2010

U.S. Census Bureau, "Age and Sex Composition: 2010," *2010 Census Briefs*, table 3, May 2011, http://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf. (Although not shown on the map, Puerto Rico is included in the dataset.)

U.S. Social Security Administration, Office of Disability Programs, *State Agency Operations Report*, data received August 2011.

4. SSI Adult Disability Application Rates by State, Calendar Year 2010

U.S. Census Bureau, "Age and Sex Composition: 2010," *2010 Census Briefs*, table 3, May 2011, http://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf.

U.S. Census Bureau, *Current Population Survey*, table POV46, September 2011, http://www.census.gov/hhes/www/cpstables/032011/pov/new46_100125_05.htm.

U.S. Social Security Administration, *SSI Annual Statistical Report*, *2010*, table 61, August 2011, http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2010/sect08.html#table61.

5. SSI Child Disability Application Rates by State, Calendar Year 2010

U.S. Census Bureau, "Age and Sex Composition: 2010," *2010 Census Briefs*, table 3, May 2011, http://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf.

U.S. Census Bureau, *Current Population Survey*, table POV46, September 2011, http://www.census.gov/hhes/www/cpstables/032011/pov/new46_100125_05.htm.

U.S. Social Security Administration, *SSI Annual Statistical Report*, *2010*, table 61, August 2011, http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2010/sect08.html#table61.

6. Percent of Population in Poverty Applying for SSI, by Age Group, Calendar Years 1974-2010

U.S. Census Bureau, *Current Population Survey*, table POV46, September 2011, http://www.census.gov/hhes/www/cpstables/032011/pov/new46_100125_05.htm (below 100 percent of poverty).

U.S. Social Security Administration, *SSI Annual Statistical Report*, *2010*, table 57, August 2011, http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2010/sect08.html#table57.

7. Combined DI and SSI Allowance Rates at Each Level of Adjudication, Fiscal Years 1986-2010

U.S. Social Security Administration, Office of Disability Programs (initial and reconsideration level data in *State Agency Operations Report*) and Office of Disability Adjudication and Review (hearing level data in Case Control System and Case Processing Management Systems). Figures for the hearing level include those involving Social Security retirement and SSI aged issues, but not Medicare. The vast majority involve disability issues. Data received August 2011.

8. State Agency Allowance Rates, Fiscal Years 1990-2010

U.S. Social Security Administration, Office of Disability Programs, *State Agency Operations Report*, data received August 2011.

Note: A revised process was introduced on October 1, 1999 in 10 States where initial denials could be appealed directly to the hearing level without a reconsideration.

9. Hearing Decision Allowance Rates, Fiscal Years 1990-2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, Case Control System and Case Processing Management Systems, data received July 2011.

10. Disability Awards, Calendar Years 1975-2010

U.S. Social Security Administration, *SSI Annual Statistical Report*, *2010*, table IV.B2, August 2011, http://www.ssa.gov/oact/ssir/SSI11/ssi2011.pdf.

U.S. Social Security Administration, *Annual Statistical Supplement, 2011*, table 6.C7, http://www.ssa.gov/policy/docs/statcomps/supplement/2011/6c.html#table6.c7.

Program Expenditures data – Estimates vs. Actual:

U.S. Social Security Administration, Office of the Chief Actuary, *OASDI Trustees Reports 2001-2011*, Table III.A6.

11. Incidence Rates for DI Worker Benefits, Calendar Years 1980-2009

U.S. Social Security Administration, Office of the Chief Actuary, *Social Security Disability Insurance Program Worker Experience* (Actuarial Study 122), May 2011, http://www.socialsecurity.gov/OACT/NOTES/s2010s.html.

12. Outcomes of Claims Filed in 2008

U.S. Social Security Administration, Office of Retirement and Disability Policy, "Longitudinal Disability Research File," July 15, 2011.

13. Number of CDRs Processed, Fiscal Years 1990-2009

U.S. Social Security Administration, *Annual Report of Continuing Disability Reviews*, Fiscal Year 2009, February 2011.

14. Medical CDR Continuation Rates by Decision Level and Year of Initial Decision

U.S. Social Security Administration, *Annual Report of Continuing Disability Reviews*, Fiscal Year 2009, February 2011.

15. Medical CDR Continuation Rates for SSI Children by Decision Level and Year of Initial Decision

U.S. Social Security Administration, *Annual Report of Continuing Disability Reviews*, Fiscal Year 2009, February 2011.

16. Ten Year Estimated Federal Savings by Program from Initial CDR Cessations in Fiscal Year 2009

U.S. Social Security Administration, *Annual Report of Continuing Disability Reviews*, Fiscal Year 2009, February 2011.

17. DI Worker Terminations, Calendar Years 1985-2010

U.S. Social Security Administration, Office of the Chief Actuary, *Social Security Disability Insurance Program Worker Experience* (Actuarial Study 122), table 5, May 2011, http://www.socialsecurity.gov/OACT/NOTES/s2010s.html. (2010 data received from unpublished Office of the Chief Actuary DIB terminations summary dated June 2011.)

18. Disabled Worker Beneficiaries Terminated for Work in 2010 by Gender and Age Group

U.S. Social Security Administration, *Annual Statistical Report on the Social Security Disability Insurance Program, 2010,* table 57, August 2011, http://www.ssa.gov/policy/docs/statcomps/di_asr/2010/sect03g.html#table57.

19. Study of Beneficiaries Awarded DI Benefits in 1996 and Their Experience with Returning to Work and Leaving the Disability Rolls (Mathematica Policy Research Study)

Liu, Sui and David Stapleton, "How Many SSDI Beneficiaries Leave the Rolls for Work? More Than You Might Think," *Disability Policy Research Brief #10-01,* Washington, D.C.: Center for Studying Disability Policy, Mathematica, Policy Research Inc., April 2010, http://www.mathematica-mpr.com/publications/PDFs/disability/ssdi_benef_ib.pdf.

20. DI and SSI Beneficiaries, Calendar Years 1980-2035 (Projected)

U.S. Social Security Administration, Office of the Chief Actuary, *OASDI Trustees Report, 2011*, table IV.B2 (intermediate assumptions), May 2011, http://www.socialsecurity.gov/OACT/TR/2011/lr4b2.html.

U.S. Social Security Administration, *Annual Report of the Supplemental Security Income Program, 2011*, table IV.B6, May 2011, http://www.socialsecurity.gov/OACT/ssir/SSI11/ssi2011.pdf.

21. DI Worker Beneficiaries as Percentage of Population Insured for Disability by Gender, Calendar Years 1975-2010

U.S. Social Security Administration, *Annual Statistical Supplement*, 1980, table 44; 1982, table 31; 1999, table 4.C2; 2010, tables 4.C2 and 5.D1; 2011, tables 4.C2 and 5.D1, http://www.ssa.gov/policy/docs/statcomps/supplement/2011/4c.html#table4.c2

http://www.ssa.gov/policy/docs/statcomps/supplement/2011/5d.html#table5.d1.

22. SSI Beneficiaries as Percentage of Population by Age Group, Calendar Years 1980-2010

U.S. Census Bureau, *Statistical Abstract of the United States* and "Age and Sex Composition: 2010," *2010 Census Briefs*, May 2011, http://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf.

U.S. Social Security Administration, *Annual Report of the Supplemental Security Income Program*, *2011*, table IV.B6, May 2011, http://www.ssa.gov/oact/ssir/SSI11/ssi2011.pdf.

23. Disabled Worker Beneficiaries as Percentage of State Population Ages 18 to 64, 2010

U.S. Census Bureau, "Age and Sex Composition: 2010," *2010 Census Briefs*, table 3, May 2011, http://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf.

U.S. Social Security Administration, *Annual Statistical Supplement, 2011,* table 5.J14, http://www.socialsecurity.gov/policy/docs/statcomps/supplement/2011/5j.html#table5.j14.

24. SSI Disabled Adult Beneficiaries in 2010 as Percentage of Total State Population 18 to 64 and of State Population 18 to 64 Below 125% of Poverty Level

U.S. Census Bureau, *Current Population Survey*, table POV46, September 2011, http://www.census.gov/hhes/www/cpstables/032011/pov/new46_100125_05.htm.

U.S. Social Security Administration, *SSI Annual Statistical Report, 2010*, table 10, May 2011, http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2010/sect02.html#table10.

25. SSI Children Beneficiaries in 2010 as Percentage of Total State Population under 18 and of Population under 18 below 125% of Poverty Level

U.S. Census Bureau, *Current Population Survey*, table POV46, September 2011, http://www.census.gov/hhes/www/cpstables/032011/pov/new46_100125_05.htm.

U.S. Social Security Administration, *SSI Annual Statistical Report, 2010*, table 10, May 2011, http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2010/sect02.html#table10.

26. Expected Time on DI Rolls, 2010

U.S. Social Security Administration, Office of the Chief Actuary, *Disabled Workers: Aggregate Probability of Death or Recovery and Expected Time on the Rolls, by Select Age* (Actuarial Study 118, table 25), June 2005, http://www.socialsecurity.gov/OACT/NOTES/s2000s.html (1996-2000 data).

U.S. Social Security Administration, Office of the Chief Actuary, *Disabled Workers: Aggregate Probability of Death or Recovery and Expected Time on the Rolls, by Select Age* (Actuarial Study 122, table 25), May 2011, http://www.socialsecurity.gov/OACT/NOTES/s2010s.html (2001-2005 data).

27. Initial DI Worker Awards by Major Cause of Disability, Calendar Years 1975-2010

U.S. Social Security Administration, Office of Research, Evaluation and Statistics, 831 file, data received August 2011.

28. Number and Percentage of Beneficiaries by Type of Impairment, December 2010

U.S. Social Security Administration, *Annual Statistical Report on the Social Security Disability Program, 2010*, table 21, August 2011, http://www.ssa.gov/policy/docs/statcomps/di_asr/2010/sect01c.html#table21.

U.S. Social Security Administration, *SSI Annual Statistical Report, 2010*, tables 35 and 36, August 2011, http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2010/sect06.html#table35.

29. DI and SSI Beneficiaries with Diagnosis of Mental Impairment, Calendar Years 1986-2010

U.S. Social Security Administration, *Annual Statistical Report on the Social Security Disability Program, 2010*, table 21, August 2011, http://www.ssa.gov/policy/docs/statcomps/di_asr/2010/sect01c.html#table21.

U.S. Social Security Administration, *SSI Annual Statistical Report, 2010*, table 34, August 2011, http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2010/sect06.html#table34.

30. Share of DI Worker Beneficiaries by Age Group, Calendar Years 1984-2010

U.S. Social Security Administration, *Annual Statistical Supplements, 2011, 2010, 2009, 2008, 2007, 2006, 2005* table 5.D4, http://www.ssa.gov/policy/docs/statcomps/supplement/2011/5d.html#table5.d4.

31. Share of SSI Disabled Beneficiaries under Age 65 by Age Group, Calendar Years 1974-2010

U.S. Social Security Administration, *Annual Report of the Supplemental Security Income Program*, *2011*, table IV.B6, May 2011, http://www.ssa.gov/oact/ssir/SSI11/ssi2011.pdf

32. Average Age of Newly Awarded DI and SSI Disabled Adult Beneficiaries, Calendar Years 1960-2010 and 1980-2010

DI Beneficiaries, 1960-2010:
U.S. Social Security Administration, Office of Research, Evaluation, and Statistics, 831 file, data received September 2011.

SSI Disabled Adult Beneficiaries, 1980-2010:
U.S. Social Security Administration, Office of the Chief Actuary, from 10 percent sample files, data received June 2011.

33. Number of DI Worker Beneficiaries by Gender, Calendar Years 1970-2010

U.S. Social Security Administration, *Annual Statistical Supplement, 2011*, table 5.D3, http://www.ssa.gov/policy/docs/statcomps/supplement/2011/5d.html#table5.d3.

34. Percentage of U.S. Population Receiving DI Worker Benefits by Gender and Age Group, 2010

U.S. Census Bureau, "Age and Sex Composition: 2010," *2010 Census Briefs*, table 2, May 2011, http://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf.

U.S. Social Security Administration, *Annual Statistical Supplement, 2011*, table 5.A1.2, http://www.ssa.gov/policy/docs/statcomps/supplement/2011/5a.html#table5.a1.2.

Note: Estimates of the U.S. resident population include persons who are residents in the 50 States and the District of Columbia. These estimates exclude residents of the Commonwealth of Puerto Rico and residents of the Island areas under U.S. sovereignty or jurisdiction (principally American Samoa, Guam, U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands). The definition of residence conforms to the criteria used in Census 2000, which defines a resident of a specified area as a person "usually resident" in that area. Estimates of the resident population exclude the U.S. Armed Forces overseas, as well as civilian U.S. citizens whose usual place of residence is outside the U.S.

35. Number of SSI Disabled Adult and Child Beneficiaries by Gender, Calendar Years 1993-2010

U.S. Social Security Administration, *Annual Statistical Supplement 2011, 2001, and 1994*, table 7.E3, http://www.socialsecurity.gov/policy/docs/statcomps/supplement/2011/7e.html#table7.e3.

36. Average Monthly DI Worker Benefit in 2010 Dollars, Calendar Years 1974-2010

U.S. Social Security Administration, *Annual Statistical Supplement, 2011*, table 5.D1, http://www.ssa.gov/policy/docs/statcomps/supplement/2011/5d.html.

Converted to 2010 dollars with inflation calculator, from http://www.bls.gov/data/inflation_calculator.htm.

37. Monthly SSI Individual Federal Benefit Rate in 2010 Dollars, Calendar Years 1974-2010

U.S. Social Security Administration, *Annual Report of the Supplemental Security Income Program, 2011*, table IV.A2, May 2011, http://www.ssa.gov/oact/ssir/SSI11/ssi2011.pdf.

Converted to 2010 dollars with inflation calculator, from http://www.bls.gov/data/inflation_calculator.htm.

38. Variations in State Agency Initial Allowance Rates, Fiscal Years 1980-2010

U.S. Social Security Administration, Office of Disability Programs, *State Agency Operations Report*, data received August 2011.

39. State Agency Initial Allowance Rates for DI and SSI by State, Fiscal Years 1985 and 2010

U.S. Social Security Administration, Office of Disability Programs, *State Agency Operations Report*, data received August 2011.

40. Percentage of State Agency DI Awards by Basis for Decision, Fiscal Years 1975-2010

U.S. Social Security Administration, Office of Disability Programs, 831 file, data received August 2011. Initial DDS determinations for DI only, SSI is not included. Percentages do not reflect effects of reconsideration, hearing, or higher appellate decisions.

41. Variations in Basis for DI Initial Awards, Fiscal Year 2010

U.S. Social Security Administration, Office of Disability Programs, 831 file, data received August 2011.

42. DI State Agency Initial Denials by Basis for Decision, Fiscal Years 1975-2010

U.S. Social Security Administration, Office of Disability Programs, 831 file, data received August 2011. It includes only initial DDS determinations for DI-only and concurrent claims. The "Other" category includes denials for failure to attend a scheduled consultative examination, failure to cooperate in submitting evidence of disability, and failure to follow prescribed treatment.

43. Percentage of State Agency Initial Denials Based on Non-Severe Impairment, Fiscal Year 2010

U.S. Social Security Administration, Office of Disability Programs, 831 file, data received August 2011. It is for adult claims only.

44. Percentage of State Agency Initial Denials Based on Ability to Perform Usual Work, Fiscal Year 2010

U.S. Social Security Administration, Office of Disability Programs, 831 file, data received August 2011. It is for adult claims only.

45. Percentage of State Agency Initial Denials Based on Ability to Perform Other Work, Fiscal Year 2010

U.S. Social Security Administration, Office of Disability Programs, 831 file, data received August 2011. It is for adult claims only.

46. Percentage of Initial Level Claims with Consultative Examinations, Fiscal Year 2010

U.S. Social Security Administration, *State Agency Operations Report*, data received August 2011.

47. Minimum Salary Levels for Initial Level State Agency Disability Examiners, Fiscal Year 2009*

U.S. Social Security Administration, Office of Disability Programs, *DDS Staffing and Workload Analysis Report*, data received August 2011.

*Fiscal year 2009 data is the most recent data available.

48. Attrition Rates for State Agency Full Time Examiners, Fiscal Year 2010

U.S. Social Security Administration, Office of Disability Programs, *DDS Staffing and Workload Analysis Report*, data received August 2011.

49. Hearing Level Workloads, Fiscal Years 1986-2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, *Key Workload Indicator Report*, Fiscal Year 2010, 4th quarter.

50. Dispositions and ALJs on Duty, Fiscal Years 1986-2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, *Key Workload Indicator Report*, Fiscal Year 2010, 4th quarter.

51. Allowance Rates at Initial and Hearing Levels by State, Fiscal Year 2010

U.S. Social Security Administration, Office of Disability Programs (initial claims allowance rates in *State Agency Operations Report*) and Office of Disability Adjudication and Review (hearing level data in Case Processing Management Systems), data received July 2011.

52. Percentage Distribution of ALJ Decisions in Fiscal Years 2002, 2006, and 2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, Case Processing Management Systems, data received June 2011.

53. Percentage Distribution of ALJ Allowance Rates in Fiscal Years 2002, 2006, and 2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, Case Processing Management Systems, data received June 2011. This chart shows the distribution of ALJ allowance rates and is not weighted by numbers of decisions. For example, the mean between an ALJ with 500 decisions and a 100 percent allowance rate and an ALJ with 10 decisions and a 0 percent allowance rate is 50 percent.

54. Medical and Vocational Expert Participation in ALJ Hearings, 1977-2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, Case Processing Management Systems (*Participation Report*), data received July 2011.

55. Cases with Representation at ALJ Hearings, Fiscal Years 1977-2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, Case Processing Management Systems (*Participation Report*), and OHA Case Control System (years before 1985), data received July 2011.

56. Appeals Council Workloads, Fiscal Year 2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, Case Processing Management Systems (*Participation Report*), data received July 2011.

57. Appeals Council Dispositions, Fiscal Years 1975-2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, Appeals Review Processing System, data received May 2011. The figures in this chart include non-disability claims.

58. Appeals Council Requests for Review, Fiscal Years 1995-2010

U.S. Social Security Administration, Office of Hearings and Appeals, *Key Workload Indicator Reports* for fiscal years 1975-2004.

U.S. Social Security Administration, Office of Disability Adjudication and Review, Appeals Council Automated Processing System, for fiscal years 2005-2010, data received May 2011.

59. Average Initial Claim Processing Time, Fiscal Years 1991-2010

U.S. Social Security Administration, Disability and Supplemental Security Income Claims Systems, data received August 2011.

60. DI and SSI Applications Pending in State Agencies at End of Year, Fiscal Years 1989-2010

U.S. Social Security Administration, Disability and Supplemental Security Income Claims Systems, data received August 2011.

61. Average Hearing Level Processing Time, Fiscal Years 1990-2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, Case Control System and Case Processing Management Systems, data received May 2011.

Note: Fiscal year 2006 and previous years included Medicare cases. Beginning fiscal year 2007, figures include only SSA cases, because Medicare cases were transferred to the Department of Health and Human Services.

62. Cases Pending in Hearing Offices at End of Year, Fiscal Years 1990-2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, Case Control System and Case Processing Management Systems, data received May 2011.

Note: Fiscal year 2006 and previous years included Medicare cases. Beginning fiscal year 2007, figures include only SSA cases, because Medicare cases were transferred to the Department of Health and Human Services.

63. Appeals Council Processing Times, Fiscal Years 1993-2010

U.S. Social Security Administration, Office of Disability Adjudication and Review, *Key Workload Indicator Reports* for fiscal years 1993-2010. Updated January 2012.

64. New Disability Cases Brought to Federal District Courts, Fiscal Years 1993-2010

Administrative Office of the United States Courts, *Judicial Business of the United States Courts* for the years shown, table C-2A, http://www.uscourts.gov/uscourts/Statistics/JudicialBusiness/2010/appendices/C02ASep10.pdf, June 2011.

65. Federal District Court Actions, Fiscal Years 1995-2010

U.S. Social Security Administration, Office of General Counsel Docket System. Data received June 2011.

Note: These numbers include all Social Security program litigation, disability and non-disability cases. The affirmance numbers include dismissals.

66. Social Security Cases Commenced and Terminated in U.S. Courts of Appeals, Fiscal Years 1997-2010

Administrative Office of the United States Courts, *Judicial Business of the United States Courts* for the years shown, table B-1A, http://www.uscourts.gov/uscourts/Statistics/JudicialBusiness/2010/JudicialBusinespdfversion.pdf, June 2011.

Note: Data do not break out categories of Social Security cases.

Part II. Aspects of Disability Decision Making

Explanation of Materials

The Board recognizes that significant background information is necessary to understand the complexities of the Social Security disability programs, including how they have developed and how they are administered. We hope that the following materials will be helpful in this regard. They are not intended to be comprehensive, but simply to make available information that describes major aspects of the disability programs.

The materials in this section provide a description of how the Social Security Administration makes disability determinations, reviewing in some detail the complex process of how adjudicators arrive at their decisions. We include an explanation of the steps that claimants must follow in applying for Disability Insurance (DI) and Supplemental Security Income (SSI) benefits.

In the five years since we last published this report, SSA has launched a number of initiatives designed to improve the disability decision making process. Among them are: the Electronic Claims Analysis Tool (eCAT), an instrument that produces a full explanation of the decision and helps to ensure the appropriate policies are applied; a Health Information Technology pilot that should speed up the adjudication process; an expanded use of predictive modeling to identify and approve more quickly those individuals who have obvious disabilities; and a Compassionate Allowance program and a Quick Disability Decision process that also fast-tracks decisions for individuals with serious disabilities.

Other background information includes:

- A chronology of significant judicial and legislative actions, and agency actions that have affected the way disability determinations are made;
- an overview of the issues decided in key civil actions;
- a chronology of past disability process tests;
- an organizational chart with an accompanying description of the SSA components that have responsibilities in the disability process;
- a bibliography of materials related to disability; and
- a glossary that explains the terms used in this and other Board reports on disability issues.

A. How Disability Determinations Are Made

The Definition of Disability

The *Social Security Act* defines disability as the inability to perform any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. The definition is the same for adults in both the Disability Insurance (DI) program and the Supplemental Security Income (SSI) program.

Under the SSI program, children under age 18 may be found disabled and eligible for benefits. To be eligible, children must have a medically determinable physical or mental impairment (or combination of impairments) that causes marked and severe functional limitations and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

When enacted, the Social Security disability program was structured essentially as an early retirement program. Benefits were limited to those individuals aged 50 and over, computed in a manner analogous to retirement benefits, and based on a finding that the inability to work would be of a "long-lasting or indefinite duration." The underlying premise was that if a person has a disability, he or she is unemployable. This model has resulted in a definition of disability in which the primary eligibility requirement is the inability to work due to a medically determinable physical or mental impairment. While subsequent amendments removed the age limitation and established the 12-month duration requirement, the basic definition equating disability and inability to work continues.

The Sequential Evaluation

As a result of Social Security's unique definition of disability, adjudicators must routinely consider the interaction of complicated medical, legal, and vocational concepts. The 5-step sequential evaluation process that SSA requires all adjudicators to follow is a deceivingly simple schematic for a process that, because of the diverse impact of impairments on individual human beings, is extraordinarily complex.

At each step of the sequential process adjudicators must obtain and consider more and different types of evidence. At the first step adjudicators need only consider whether the individual is working and the gross amount of earnings that he or she is earning. At step 5, the last step, adjudicators must look at non-medical evidence of eligibility, medical evidence, and vocational evidence. Each step of the process requires adjudicators to make progressively more complex judgments and make progressively difficult assessments of increasingly subjective factors. Although not a formal step in the sequential evaluation process, the 12-month duration requirement is considered at every step of the sequential evaluation process except the first one. With the exception of SSI statutorily blind individuals, any severe or disabling impairment preventing an individual from working must have lasted or be expected to last for at least 12 continuous months, or the impairment must be expected to result in death.

Adjudicators follow the five sequential evaluation steps in the order shown below.

1. Is the individual engaging in substantial gainful activity (SGA)?

If the individual is working and grossing an average of $1,010[2] or more a month (or performing substantial services if self-employed), the claim is usually denied without considering medical factors. The amount of earnings used to determine if an individual is engaging in substantial gainful activity is established by regulation and is updated periodically.

According to SSA's work-oriented definition of disability, an impairment is significant only to the extent that it prevents work. By engaging in SGA, an individual with an otherwise severe medical condition has demonstrated that he or she is not disabled by SSA rules.

2. Does the individual have a severe impairment?

Once the claimant has established that he or she is not presently engaging in SGA, the next step in the process is to establish the existence of a severe medical condition. Fundamental to the disability determination process is the statutory requirement that to be found disabled, an

[2] 2012 SGA limit for non-blind individuals. Substantial gainful activity is limited to $1,690 for blind individuals.

individual must have a medically determinable impairment "of such severity" that it prevents him or her from working.

If an impairment (or combination of impairments) does not limit significantly an individual's physical or mental ability to perform basic work activities, it is considered to be not severe. If the adjudicator determines that an impairment is not severe, a finding is made that the individual is not disabled irrespective of age, education, or previous work history.

If the adjudicator determines that the individual has a severe impairment, benefits are not awarded summarily. Instead, the claim progresses to the next step in the sequential evaluation.

3. Does the individual have an impairment that meets or equals (i.e., is equivalent to) an impairment described in SSA's Listing of Impairments?

According to Robert M. Ball, Commissioner of Social Security from 1962 to 1973, "The key administrative decision, which was made in the early days of the disability program, and which has governed disability determinations since, was to adopt what may be called a 'screening strategy.' The idea was to screen quickly the large majority of cases that could be allowed on reasonably objective medical tests and then deal individually with the troublesome cases that didn't pass the screen. What is wanted from a physician is not his opinion as to whether someone is 'disabled' or whether he 'can work,' but objective evidence about a condition."[3]

This step of the sequential process requires the most exacting and objective level of proof. It is the only step where benefits may be awarded solely on the basis of medical factors. If an individual is not working and his or her impairment is one of the listed impairments, or an impairment of equal severity, a finding of disability is justified without considering the individual's age, education, or previous work history.

The Listing of Impairments is a medical reference base for the determination of those physical or mental impairments that are considered severe enough to prevent an individual from working. Most of the listed impairments are permanent impairments or are expected to result in death. For the other listings, the required evidence must show that the 12-month duration requirement will be, or has been met. The listings serve several important purposes. They are an effective screening device for those impairments that are obviously disabling, they provide public awareness of the criteria for disability, they serve as a benchmark of severity for adjudicators, and they promote national uniformity and consistency at all adjudicative levels.

The Listing of Impairments is organized according to disorders of 14 body systems: musculoskeletal; special senses and speech; respiratory; cardiovascular; digestive; genito-urinary; hematological; skin disorders; endocrine; impairments that affect multiple body systems; neurological; mental; malignant neoplastic diseases; and the immune system. For children there is the additional category of growth impairments, for a total of 15. Each section has a general introduction with definitions of key concepts. Evaluation criteria provided for impairment categories are selected to establish findings that would confirm the presence and severity of the impairment, yet not exclude from consideration the variations of individual reaction to illness and injury. In some disorders the findings that establish the diagnosis are considered to be sufficient to establish the presence of a disabling impairment. In others, specific findings with discrete values must accompany diagnostic findings before the same conclusion can be drawn.

By comparing the clinical signs, symptoms, and laboratory findings from the evidence of record with those in a listing, the adjudicator can determine whether the listing is met. On the other hand, determining whether an impairment or combination of impairments is *equal* in severity and duration to a listed impairment requires medical expertise as well as skill in applying difficult program concepts. An equivalence decision is justifiable under the following circumstances:

- When one or more of the specific medical findings for a listed impairment is missing from the evidence, but the evidence includes other medical findings of equal or greater *clinical* significance relating to the same impairment.
- When an impairment does not appear in the listings, but the medical findings and the severity of the unlisted impairment are comparable in severity and in duration to a listed impairment. Many of the Compassionate Allowance impairments were formerly evaluated under these circumstances.
- When there are multiple impairments, none of which meet or equal a listed impairment, but the combined severity of the multiple impair-

[3] *Social Security Today and Tomorrow*, Columbia University Press, 1978, pp. 157-158.

ments is equal in severity and duration to a listed impairment.

In deciding the medical equivalence, regulations require that adjudicators consider the opinion of program physicians or psychologists. A Social Security Ruling (SSR 86-8) was issued in 1986 that was designed to clarify the application of the "equals" concept. Apart from a slight increase in the number of allowances made on the basis of equaling the listing in the early 1990s, the number of "equals" decisions has remained at less than 10 percent of all allowance decisions. Failing to establish that the individual's impairment meets or equals the listings does not mean that a claim will be denied. Benefits may still be awarded if it is found that the reason an individual is not working is because of a severe impairment. Since the severity of the impairment must be the primary basis for a finding of disability, an assessment of the individual's medically-based functional limitations and remaining capacities must be completed before a decision can be rendered at step 4 or step 5 of the sequential evaluation process.

Residual Functional Capacity (RFC) is an administrative assessment requiring a thorough analysis of all relevant evidence. The purpose of the RFC assessment is to determine the extent to which the individual's impairment(s) reduces the ability to engage in specific work-related physical and/or mental functions. This residual capacity assessment is meant to reflect the most a person can do, despite any limitations. Disability examiners may participate and have input into the RFC assessment at the initial and reconsideration level; however, regulations provide that program physicians or psychologists are responsible for the actual completion of the RFC.[4]

When establishing the RFC, the adjudicator must consider limitations and restrictions imposed by all of the individual's impairments including any that are considered to be not severe. While a "not severe" impairment, by itself, would not have more than a minimal impact on work-related function, it could, when considered in combination with other severe impairments, reduce the range of work an individual could do at all or prevent an individual from performing past work. Adjudicator conclusions about an individual's functional ability must be supported by specific medical facts. Statements from the individual or others about functioning must also be considered and any inconsistencies must be resolved or explained. The RFC assessment must include a written explanation of why any symptoms, such as pain, that result in limitations can or cannot be reasonably accepted as consistent with the medical evidence. Medical source opinions must be considered and discussed in the RFC assessment and primary importance must be given to any opinion expressed by the individual's treating source. When a treating source gives an opinion that discusses the consequences or the implications of an individual's impairment and the opinion is supported by the medical evidence, it must be given controlling weight by the adjudicator.

The adjudicator must arrive at a conclusion that expresses the individual's physical capacity for such activities as walking, standing, lifting and carrying. In cases involving mental impairments, adjudicators have to consider such capabilities as the individual's ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers, and work pressures.

4. Can the individual, despite any functional limitations imposed by a severe impairment, perform work that he or she did in the past?

Once the RFC assessment is completed, a determination must be made as to whether, considering the impairment-induced functional loss, the individual retains the capability to perform relevant work that he or she has done in the past 15 years. At this step, the vocational issues are narrow and do not consider the effect of age or educational level. If the adjudicator determines that the individual is able to meet the physical and mental demands of any prior work, a finding will be made that the individual is not disabled irrespective of age or education.

If it is determined that the individual does not have the functional capacity to perform past relevant work, the adjudicator moves on to the fifth and final step of the process.

5. Can the individual do any other type of work?

At step 5, the burden is on the Social Security Administration to determine whether, given the individual's functional abilities, there are sufficient jobs in the national economy that the person can perform. Using the RFC assessment, the adjudicator consults SSA's medical-vocational guidelines, commonly known as the vocational grids. The

[4] In the 10 prototype DDSs, "single decision maker" disability examiners are permitted to adjudicate most cases without a mandatory concurrence by a doctor. SSI child cases and cases involving a mental impairment may not be adjudicated without a doctor's concurrence.

grids were developed to provide a framework for determining whether the claimant's functional abilities, in combination with age, education, and work experience, significantly limit the number of jobs that he or she may be capable of performing. SSA published the grids in 1979 using vocational data supported by major government publications, such as the U.S. Department of Labor's *Dictionary of Occupational Titles*.

The vocational grids direct a finding of disabled or not disabled only when all of the criteria of a specific rule are met. For example, according to Vocational Rule 201.03, a claimant who is limited to sedentary work because of physical impairments, is of advanced age (55 or older), and has a limited education (11th grade or less) will be found not disabled provided the previous work was skilled or semi-skilled and those skills are transferable to a new job setting.

The medical-vocational guidelines, which are based solely on the capacity for physical exertion, function as reference points, or guiding principles, for cases involving severe non-exertional impairments. If a claimant's impairment is non-exertional (e.g., postural, manipulative, or environmental restrictions; mental impairment) or if he or she has a combination of exertional and non-exertional limitations, the vocational rules will not direct the conclusion of the claim. Instead, the adjudicator will use the guiding principles to evaluate the facts of the case. This is often a difficult area for adjudicators and results in more subjective decision making.

When SSA developed the grids, the agency calculated the number of unskilled jobs that exist in the national economy at different functional levels (sedentary, light, medium, heavy, and very heavy). Non-exertional limitations impact on the number of jobs (range of work) that an individual is able to do at the different functional levels. In the example cited above, the grids direct a finding of not disabled for the claimant with exertional limitations restricting him or her to sedentary work. If, however, the same claimant also has significant limitations of fingering and feeling (a non-exertional limitation), the decision outcome may change. Since fingering is needed to perform most unskilled sedentary jobs and to perform certain skilled and semiskilled jobs at all exertional levels, the adjudicator will have to determine whether there are jobs "in significant numbers" that the claimant can do.

In claims reaching this stage of the sequential process, vocational issues are the most complicated. When making their decision, adjudicators rely primarily on the *Dictionary of Occupational Titles* (DOT) and other companion publications.[5] In some DDSs, disability examiners have access to a vocational specialist and may request assistance from that individual in a difficult case. At the hearing level, the administrative law judge may request the testimony of a vocational expert in cases involving complicated vocational issues.

The percentage of DI claims awarded by State agencies on the basis of vocational factors has nearly tripled, increasing from 18 percent of all awards in 1983 to 54 percent in 2010. Denials based on the claimant's ability to perform usual work have risen from nearly 19 percent in 1981 to 28 percent in 2010. Denials based on the ability to perform other work have increased from 11 percent in 1981 to 35 percent in 2010.

[5] The *Dictionary of Occupational Titles* was last updated in 1991 and is no longer maintained by the Department of Labor. Many jobs listed in the DOT no longer exist, and others, like many computer jobs, do not appear in the DOT. SSA, however, continues to use it as one of its sources of data about job requirements in the national economy. Because this information is fundamental to the sequential evaluation process and SSA's medical-vocational regulations, the agency has convened an expert panel to research and make recommendations that will enable SSA to develop an occupational information system suited to its disability programs.

B. Steps in the Social Security Disability Application and Appeals Processes

Initial Application

Field Office Role

A claimant files an application for Social Security Disability Insurance (DI) and Supplemental Security Income (SSI) disability benefits in one of SSA's 1,300 field offices. The application asks for information that will enable SSA staff to determine whether the claimant meets the non-disability requirements for entitlement. For DI cases, these requirements include such factors as whether the claimant is insured for disability benefits. In SSI cases, individuals must provide proof of citizenship status and documentation of their income and resources.

The field office is also responsible for obtaining information from the claimant about his or her impairment and how it limits the ability to do work. Information about the claimant's medical sources, tests, and medications is collected, as well as information about the individual's past work, education and training. The accuracy and completeness of the information on this "disability report" can influence whether the claimant's application is approved or denied and affects the speed in which the decision is made.

Claimants generally rely on field office staff to advise them and their representatives on what types of evidence to submit to support their claims. SSA developed a "disability claim starter kit" that is sent out in advance of the interview and provides the claimant with preparatory materials for the interview. The claimant or the representative can complete the forms and worksheets and take them or mail them to the field office, or use the Internet to transmit the information. Telephone interviews and disability reports filed over the Internet now comprise a growing number of the applications filed. As a result, fewer applicants are actually being seen in the field offices.

DDS Role

After securing the disability report, the SSA field office sends it to a Disability Determination Services (DDS), a State-run agency that makes disability determinations using SSA's regulations and procedures. There, a team consisting of a disability evaluation specialist and a physician (or psychologist) considers the facts in the case and determines whether the claimant is disabled under the Social Security rules. While the State agencies are not under SSA's direct administrative control, SSA fully funds their costs and provides oversight. DDSs follow the SSA-established program standards and their decisions are subject to quality assurance review.

The claimant is required to establish that he or she is disabled by providing medical and other evidence of a disabling condition. The DDS, however, is responsible for making every reasonable effort to help the claimant get medical reports from the claimant's physicians and hospitals, clinics, or institutions where the person has been treated. The DDS pays a fee for any medical reports that it needs and requests.

If additional medical information is needed before a case can be decided, the claimant may be asked to attend a "consultative examination," paid for by the DDS. (SSA pays the DDS for the cost of these examinations, and for the cost of obtaining medical reports.) This examination is important for those applicants who may not have a current medical provider or where the necessary information is not readily available. SSA requires that every reasonable effort be made to obtain the evidence from the claimant's treating sources before a consultative examination is scheduled.

In making a decision on a claim, the DDS conducts the process in an informal, non-adversarial manner. Claimants are not seen in person by the State agency adjudicators, but telephone contacts are not unusual. The claimant may present information he or she feels is helpful. The information that the claimant provides and all the evidence that SSA and the State agency obtain from medical and other sources will be considered. The individual may submit the information him or herself, or it may be provided by the claimant's representative.

Once a decision is rendered, the claimant receives a written notice. The reasons for the allowance or the denial determination are stated in the notice. The claimant is also informed of the right to appeal. When a claim is approved, the award letter shows the amount of the benefit and when payments start.

Administrative Appeals

Individuals who receive an unfavorable initial disability decision have the right to appeal. There are four levels of appeal: (1) reconsideration by the State agency; (2) hearing by an administrative law judge (ALJ); (3) review by the Appeals Council; and (4) Federal court review. At each level of appeal,

claimants or their appointed representative must file the appeal request in writing within 60 days from the date the notice of unfavorable decision is received. If the claimant does not take the next step within the stated time period, he or she loses the right to further administrative review and the right to judicial review of this particular claim, unless good cause can be shown for failure to make a timely request.

Reconsideration

Generally, the reconsideration is the first level of appeal and consists of a DDS case review. It is similar to the initial determination process except that it is assigned to a different disability examiner and physician/psychologist team. Claimants are given the opportunity to present additional evidence to supplement the information that was submitted when the original decision was made.

If the reconsideration team concurs with the initial denial of benefits, the individual may then request a hearing before an ALJ in the Office Disability Adjudication and Review.

Administrative Law Judge Hearing

Administrative law judges (ALJs) are based in the 169 hearing offices (including seven satellite offices) located throughout the nation. At the hearing, claimants and their representatives may appear in person (or by videoconference), submit new evidence, examine the evidence used in making the determination under appeal, and present and question witnesses. The ALJ may request medical and vocational experts to testify at the hearing and may require the claimant to undergo a consultative medical examination. The ALJ issues a decision based on the hearing record and, in cases where the claimant waives the right to appear at the hearing, the ALJ makes a decision based on the evidence that is in the file and any new evidence that has been submitted for consideration.

DDSs and ALJs approach the decision making process differently. DDSs conduct a paper review of a claimant's medical and vocational evidence, while ALJs hold face-to-face hearings and have the opportunity to observe the claimants firsthand. Due to the passage of time between the two decisions, ALJs often receive information that was not available to the DDS and was not considered in that determination. In addition, hearings are more likely to involve professional representation. Another difference is the instructional basis for the decision; DDS adjudicators use instructions found in SSA's Program Operations Manual System (POMS) while ALJs rely directly on the law and regulations. SSA is currently working on an electronic case analysis tool that will bridge the two determination standards and improve both the quality and consistency of decisions at all levels. Many experts contend that these are some of the differences in the decision making process that contribute to the high number of DDS decisions that are reversed at the hearing level.

Appeals Council Review

SSA's final administrative appeals step is to the Appeals Council. If the claimant is dissatisfied with the hearing decision, he or she may request that the Appeals Council review the case. The Council, made up of administrative appeals judges, may also, on its own motion, review a decision within 60 days of the ALJ's decision.

The Appeals Council considers the evidence of record, any allowable additional evidence submitted by the claimant, and the ALJ's findings and conclusions. The Council may grant, deny, or dismiss a request for review. If it agrees to review the case, the Council may uphold, modify, or reverse the ALJ's action, or it may remand it to the ALJ so that he or she may hold another hearing and issue a new decision. The Appeals Council may also remand a case in which additional evidence is needed or additional action by the ALJ is required.

The Appeals Council's decision, or the decision of the ALJ if the request for Appeals Council review is denied, is binding unless the claimant files an action in a Federal District Court.

Judicial Appeals

Federal District Court

Claimants may file an action in a Federal District Court within 60 days after the date they receive notice of the Appeals Council's action. In fiscal year 2010, 13,229 new Social Security cases were appealed to the district courts, representing less than 5 percent of the district court civil caseload.

Circuit Court of Appeals and Supreme Court

If the U.S. District Court reviews the case record and does not find in favor of the claimant, the claimant can continue with the legal appeals process to the U.S. Circuit Court of Appeals and ultimately to the Supreme Court of the United States. The Social Security Administration may, similarly, appeal district or circuit court decisions that are favorable to the claimant.

C. Chronology of Significant Disability Related Judicial, Legislative, and Agency Actions

Following is a chronology of major court cases, legislation, and agency actions (including regulations and agency rulings) that have affected the way Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) determinations are made. More extensive information is available at SSA's website on its "History" page (http://www.socialsecurity.gov/history).

1950 *The Social Security Act Amendments of 1950* (Public Law 81-734) provided for Federal financial assistance to States for programs designed for "aid to the permanently and totally disabled" in the form of "money payments to, or medical care on behalf of, or any type of remedial care recognized under State law in behalf of" needy disabled adults.

1954 *The Social Security Amendments of 1954* (P.L. 83-761) included a provision designed to prevent the erosion of retirement and survivors benefits as a result of a worker having a period of disability. This "disability freeze" excluded from the computation of retirement benefits any time when a worker was disabled.

1956 *The Social Security Amendments of 1956* (P.L. 84-880) provided for Social Security Disability Insurance (DI) benefits for workers between the ages of 50 and 65 who were found to be unable to engage in substantial gainful activity due to a medically determinable physical or mental impairment which is expected to result in death or which is of long-continued and indefinite duration. They also established benefits for disabled dependent children of a retired or deceased worker.

1958 *The Social Security Amendments of 1958* (P.L. 85-840) established benefits for the dependents of disabled workers

1960 *The Social Security Amendments of 1960* (P.L. 86-778) extended disability benefits to workers under age 50, eliminated the waiting period for disabled workers who were prior SSDI beneficiaries, or had a previously disabling condition in the five years prior to onset of current disability.

In *Kerner v. Flemming*, 283 F.2d 916 (2nd Cir. 1960), the Second Circuit Court of Appeals held that when a claimant had shown that he could not do his past work, the burden of proof shifted to the government to show what the claimant could do and what employment opportunities there were for someone who was limited in the same way as the applicant.

1963 In *Hayes v. Celebrezze*, 311 F.2d 648 (5th Cir. 1963), the Fifth Circuit Court of Appeals held that the government must consider pain when making disability decisions, even though the cause of the pain could not be demonstrated by objective clinical and laboratory findings. By 1967, several other circuit courts of appeals had issued similar holdings.

1965 *The Social Security Amendments of 1965* (P.L. 89-97) changed the statutory disability duration requirement from "long-continued and indefinite duration" to "has lasted or can be expected to last for a continuous period of not less than 12 months." These amendments also changed the definition of disability for the blind over age 55, adopting a standard based on the inability to engage in work requiring skills comparable to those of past occupations.

Appeals courts in two circuits held that, when denying disability on the basis that a claimant has the ability to do other work (that is, work other than his or her past job), the government must show that jobs are available in the claimant's area.

1967 *The Social Security Amendments of 1967* (P.L. 90-248) made two important changes to the definition of disability in response to a series of court decisions that reversed agency denial of disability claims involving consideration of pain and the availability of jobs. The new definition made clear that:

- an individual's disability must be one "that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic findings," and
- to be found disabled, an individual must be unable to do any kind of substantial gainful work that exists in the national economy, without regard to whether a specific job vacancy exists or whether the individual would be hired if he/she applied for work.

1968 Following passage of the *Freedom of Information Act* in 1966, SSA published the Listing of Impairments ("the Listings") in its regulations (33 FR 11749 (August 20, 1968)). Previously, the Listings, which described medical conditions that that met SSA's disability standard, had existed only in internal agency operating manuals, and were not available to the public.

1971 In *Richardson v. Perales*, 402 U.S. 389 (1971), the U.S. Supreme Court held that a written report of a physician who was not the claimant's own doctor, but who had provided a report on a consultative basis (i.e., a consultative examination) could constitute substantial evidence to support a decision adverse to the claimant.

1972 *The Social Security Amendments of 1972* (P.L. 92-603) replaced most Federally-aided State programs of assistance to the aged, blind and disabled with the Supplemental Security Income (SSI) program, which would be administered by the Social Security Administration. Disability benefits were provided not only for adults, but also for children with impairments of "comparable severity." When implemented in 1974, the new law required SSA to perform disability evaluations for a significantly different demographic population, including adults with limited work histories as well as children. These amendments also reduced the waiting period for disability insurance benefits from six months to five, and provided Medicare coverage for disabled SSDI recipients after twenty four months of benefits.

1975 In *Cardinale v. Mathews*, 399 F.Supp. 1163 (D.D.C.1975), the District Court for the District of Columbia held that the government's procedures for reducing or terminating SSI benefits did not properly apply the principles of the Supreme Court's *Goldberg v. Kelly* decision of 1970. In *Goldberg v. Kelly*, 397 U.S. 254 (1970), the Supreme Court held that due process required that public assistance recipients have an opportunity for an evidentiary hearing before termination of their benefits. The SSI procedures did not require advance notice or offer a hearing in certain circumstances and the District Court found that those procedures violated the constitutional requirement for due process. SSA published regulations in 1978 (43 FR 18170 (April 28, 1978)) implementing a wide range of due process protections for SSI recipients, including advance notice and payment continuation rights. (In 1976, the Supreme Court, in *Mathews v. Eldridge*, 424 U.S. 319 (1976), held that *Goldberg* standards did not apply to DI benefits.)

1977 SSA published the first regulations describing the evaluation of disability in children claiming SSI benefits, including additions to the Listing of Impairments for children (42 FR 14705 (March 16, 1977)).

1978 SSA published regulations (effective in 1979) implementing a set of medical-vocational guidelines, frequently referred to as the "grid" rules, for assessing certain applicants' disability status according to their work capacity, age, education, and work experience (43 FR 55349 (November 28, 1978)). The rules were controversial, and resulted in a significant amount of litigation.

1980 In response to rapid growth of the Disability Insurance and SSI disability programs in the 1970s, Congress passed *The Social Security Disability Amendments of 1980* (P.L. 96-265), which modified the DI benefit computation and included provisions that required the government to:

- issue regulations defining performance standards for State disability determination services (DDSs), the State agencies that make disability decision for SSA;
- review a specified percentage of DDS allowances before paying benefits;
- assume the disability determination function from a DDS if the DDS substantially fails to follow Federal regulations and guidelines or if the State no longer wishes to make the determinations;
- implement a program to review decisions made by SSA administrative law judges (ALJs) and report to Congress on the progress of the program; and
- review the status of disabled individuals with non-permanent disabilities at least every three years (by conducting continuing disability reviews, or CDRs).

The amendments also contained a number of provisions designed to encourage DI and/or SSI disability beneficiaries to return to work, including:

- continuation of benefits while a beneficiary is in vocational rehabilitation;
- disregard of certain impairment-related work expenses when determining whether the individual is engaging in substantial gainful activity;
- re-entitlement to benefits for individuals whose attempts to return to work prove unsuccessful; and
- extension of Medicare coverage for individuals after benefits cease due to work activity.

The amendments also included temporary authority for return-to-work demonstration projects and administrative provisions that limited the circumstances under which a case may be remanded by a court.

1981 In *Finnegan v. Mathews*, 641 F.2d 1340 (9th Cir.1981), the Ninth Circuit Court of Appeals restricted the government's ability to terminate SSI payments to beneficiaries who had been grandfathered into the SSI program from the former State-run assistance programs. SSA issued a ruling of "non-acquiescence," i.e., a statement that it would not apply the decision beyond the case at hand on the grounds that the court's standard would be impossible to administer.

A bipartisan *National Commission on Social Security Reform* (informally known as the *Greenspan Commission*) was appointed by the President and Congressional leaders to study Social Security's short-term financing crisis and make recommendations for how to deal with the crisis.

1982 SSA issued the first of a series of new Social Security Rulings (SSRs) that had a significant impact on agency disability policy. (SSRs are a series of precedential decisions relating to the programs administrated by SSA and are published under the authority of the Commissioner of Social Security. Although SSRs do not have the weight as laws or regulations, they are binding on all decision makers within the agency.) The new rulings addressed a number of complex and sometimes controversial program issues, including what constitutes a "severe" impairment, use of the Listing of Impairments, evaluation of residual functional capacity, consideration of past relevant work, and the use of SSA's "grid" rules.

In *Patti v. Schweiker*, 669 F.2d 582 (9th Cir. 1982), the Ninth Circuit Court of Appeals held that the government could not terminate SSI disability benefits after a CDR unless it showed that the beneficiary's condition had improved. SSA issued a ruling stating that it would not apply the court's decision to other cases (SSR 82-49c). Over the next two years, similar circuit court rulings followed in most of the other circuits, and the government faced numerous class actions across the country challenging its policy. In addition to these court challenges, there was increasing public and Congressional criticism throughout 1981 and 1982 about SSA's implementation of the CDR requirements of the 1980 amendments.

1983 In January 1983, the *Greenspan Commission* issued its final report, making 22 specific recommendations to improve the short- and long-term finances of the Social Security programs. These recommendations became the basis for *The Social Security Amendments of 1983* (P.L. 98-21), which made several program changes, including the partial taxation of Social Security benefits, the first coverage of Federal employees under the *Federal Insurance Contributions Act*, and, beginning in 1999, a gradual increase in the retirement age. The Commission also recommended a study of the feasibility of making SSA a separate independent agency. At that time, SSA was a component of the Department of Health and Human Services (HHS).

An Act Relating to Taxes on Virgin Islands Source Income and Social Security Disability Benefits (P.L. 97-455) provided for continuation of benefit payments for an individual who was appealing a disability cessation decision, and it established a right to a face-to-face hearing at the first stage of such an appeal. Although these provisions were originally temporary, they were later extended and made permanent.

In response to continuing concerns about the CDR process, the Secretary of Health and Human Services (HHS – SSA's parent agency at the time) announced several important CDR reforms, including:

- a moratorium on review of most disability claims based on mental impairments (pending review and revision of SSA's disability standards for mental impairments);
- exempting more beneficiaries from the reviews;
- a random selection of cases for review; and
- a top-to-bottom evaluation of SSA disability evaluation policies and procedures.

1984 In April 1984, the Secretary of HHS announced that SSA would implement a moratorium on all CDRs, citing confusion caused by differing court orders and State actions. Several governors had already declared State moratoriums. The Secretary promised to work with Congress to find solutions, which resulted later that year in *The Social Security Disability Benefits Reform Act of 1984*.

The Disability Benefits Reform Act of 1984 (P.L. 98-460) made many important changes to the law, some of them in direct response to longstanding controversy and dispute over the Administration's implementation of the CDR requirements of the 1980 amendments. The Act incorporated into the law (on a temporarily basis) SSA's existing policy on the evaluation of pain (which provided that an individual's statement as to pain or other symptoms could not alone be conclusive evidence of disability and required medically accepted findings showing the existence of a medical condition that might be expected to cause the pain alleged). The law also required the Secretary to:

- appoint a commission to conduct a study on the evaluation of pain in determining whether an individual is under a disability;
- implement a "medical improvement" standard in CDRs;
- consider the cumulative effect of all impairments in cases involving multiple impairments;
- consider all evidence available in the individual's case record and develop a complete medical history of at least the preceding year;
- establish uniform standards for determining disability that would apply at all levels of determination, review, and adjudication;
- revise the mental impairment criteria in the Listing of Impairments and suspend CDRs of mental impairment cases pending that revision;
- ensure that a disability determination in the case of an individual with a mental impairment was made only after review by a qualified psychiatrist or psychologist employed by the State DDS;
- continue to provide face-to-face reconsiderations and continued benefit payments during appeal of a CDR cessation, and a pre-review notice to beneficiaries informing them that their continuing eligibility was being reexamined;
- conduct demonstration projects involving personal appearance interviews at the DDS level; and
- issue standards with respect to consultative examinations.

Following years of litigation in several U.S. Courts of Appeals, the Supreme Court in *Heckler v. Campbell*, 461 U.S. 458 (1983), upheld the government's use of its medical-vocation guidelines ("grid" rules) to direct disability decisions.

1985 On June 3, 1985 SSA issued *Interim Circular 185*, which revised its long-standing policy on non-acquiescence with court decisions. The new policy provided that SSA would review all circuit court decisions to determine whether the court's decision contained any holdings that were in conflict with SSA's interpretation of the *Social Security Act* or regulations. If such a conflict was identified, SSA would then issue an acquiescence ruling explaining how SSA would apply the holding. In August, the United States District Court for the Southern District of New York in *Stieberger v. Heckler*, 615 F. Supp. 1315 (S.D.N.Y. 1985), ruled on a class action challenge to the government's policy for acquiescing to circuit court decisions. The court held that the policy was unlawful, and it certified a State-wide class of New York State residents.

SSA published extensive revisions to the adult mental disorders criteria in the Listing of Impairments (50 FR 35038 (August 28, 1985)), as required by *The Social Security Disability Benefits Reform Act of 1984.* The new listings:

- greatly expanded the number of impairment categories;
- standardized the measures used to rate functional limitations;
- provided alternative functional measures for some chronic mental impairments; and
- required adjudicators at all levels to apply a prescribed "Psychiatric Review Technique" when evaluating mental disorders.

1986 In *Schisler v. Heckler*, 787 F.2d 76 (2d Cir. 1986), the Second Circuit Court of Appeals held that a treating physician's opinion on the subject of medical disability is binding unless contradicted by substantial evidence. This was one of several important court cases challenging SSA's policy on the evaluation of treating physician opinion evidence.

The *Commission on Pain* (established pursuant to *The Social Security Disability Benefits Reform Act of 1984*) issued a report recommending that additional research be done to obtain more reliable data and to develop methods to assess pain. It also recommended that the policy embodied in the 1984 Act be continued until the research was continued.

1987 The *Omnibus Budget Reconciliation Act of 1987* (P.L. 100-203) extended the period during which an individual who returns to work may become automatically re-entitled to disability benefits from 15 to 36 months.

The Supreme Court in *Bowen v. Yuckert*, 482 U.S. 137 (1987), upheld SSA's use of a minimum threshold of medical disability as a basis for denying benefits based on a non-severe impairment at step 2 of the sequential evaluation process.

In *Bowen v. City of New York*, 476 U.S. 467 (1987), the Supreme Court upheld a lower court ruling that had important implications for future class action lawsuits. The lower court ruled that the certified class included both:

- individuals who had already received a final decision on their claims, but who had not filed a timely appeal; and
- individuals whose claims were still within the time period for appeal (i.e., those who "failed to exhaust their administrative remedies").

1988 SSA issued *Social Security Ruling 88-13,* which re-stated the agency's existing pain policy (codified in *The Social Security Disability Benefits Reform Act of 1984*) and provided guidance on how to develop evidence of pain and how to apply the policy at each step of the 5-step disability evaluation process. The ruling was later superseded by *Social Security Ruling 95-5p*.

1989 *The Omnibus Budget Reconciliation Act of 1989* (P.L. 101-239) required the Secretary of HHS to establish and conduct an ongoing program of outreach to children who are potentially eligible for SSI benefits because of disability or blindness.

1990 SSA published new regulations (in 20 CFR 404.985 and 416.1485) reinforcing its existing acquiescence policy and expanding it to include all levels of the adjudication process (55 FR 1012 (January 11, 1990)).

On February 20, 1990, the Supreme Court in *Sullivan v. Zebley*, 493 U.S. 521 (1990), ruled that the government's policy on disability determinations for SSI children held children erroneously to a stricter definition of disability than the standard for adults.

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) made several important changes to the law. It:

- reduced the percentage of favorable DDS decisions that must be reviewed by SSA from 65 percent to 50 percent;
- required review of a sufficient number of unfavorable determinations to ensure a high degree of accuracy;
- made permanent the statutory provision for continued payment during appeal of adverse CDRs; and
- changed the definition of disability for widows and widowers to the same definition used for workers.

The law also required the Secretary of HHS to make reasonable efforts to ensure that, when evaluating disability for a child, a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of the child evaluate the case.
SSA published rules expanding the Listing of Impairments with respect to the evaluation of mental disorders in children (55 FR 51208 (December 12, 1990)).

1991 SSA issued new regulations in response to the *Zebley* Supreme Court decision implementing a new disability evaluation process for SSI children (56 FR 5534 (February 11, 1991)). The new rules established a procedure for evaluating whether a child's impairments were "functionally equivalent" to the Listing of Impairments and, if not, for making an "Individualized Functional Assessment" to determine disability based on less severe functional limitations.

SSA issued new regulations (56 FR 36932 (August 1, 1991)) implementing provisions of *The Social Security Disability Benefits Reform Act of 1984* requiring that SSA establish standards for consultative examinations, consider all of the evidence available in a claimant's case record, and develop a complete medical history covering at least the preceding 12 months. The new regulations also addressed the evaluation of pain and other symptoms, and provided rules on the evaluation of medical opinion evidence, including the opinions of claimants' treating physicians.

1992 Beginning in 1992, State-wide class action suits were filed in Iowa, Nebraska, Oregon, and Utah against State DDSs and the Federal government alleging that adjudicators used improper policies and procedures when making disability determinations. The issues included development and consideration of treating source medical evidence and opinion; evaluation of the credibility of an individual's statement of symptoms, including pain; appropriate use of vocational resources and evaluation of vocational evidence; and Federal oversight of the DDSs. The cases were settled with agreements that included re-evaluation of certain previously denied claims and ongoing communications with plaintiffs' representatives to discuss concerns related to the disability determination process.

SSA began an ambitious project to develop an automated, paperless, disability case processing system – the "Reengineered Disability System" – to improve customer service by reducing processing time and producing more consistent disability decisions. After pilot testing revealed significant performance problems, SSA scaled back its plans in 1999 and focused instead on incremental improvements to the process, including better software and use of technology to enable the efficient receipt of electronic medical evidence. This eventually transformed into the "Electronic Disability System" (eDib) initiative in 2001.

1993 The Second Circuit Court of Appeals in *Schisler v. Sullivan*, 3 F.3d 563 (2d Cir. 1993) found that, while the government's 1991 regulations on the opinions of treating physicians departed in some ways from the court's earlier opinion, the rules were a valid use of the agency's regulatory power.

SSA published the first Listing of Impairments criteria addressing Human Immunodeficiency Virus (HIV) infection (58 FR 36008 (July 2, 1993)). These new listings came after extensive litigation challenging SSA's policy for evaluating claims involving HIV.

1994 *The Social Security Administrative Reform Act of 1994* (P.L. 103-296) established the Social Security Administration as an independent Federal agency effective March 31, 1995, with a single administrator and a 7-member bipartisan advisory board. The Act also contained a number of provisions restricting Social Security and SSI payments for drug addicts and alcoholics. These changes followed widespread reports of individuals using benefit payments to support their substance abuse, and a report by the General Accounting Office that found that the number of substance abusers on the Social Security rolls had increased significantly and that SSA had not adequately enforced the requirement that they receive treatment for the addiction. Restrictions imposed by the new law included:

- the appointment of a representative payee for all drug addicts and alcoholics;
- mandatory treatment for addiction or alcoholism;
- suspension of benefits for refusing available treatment; and
- termination of benefits after 36 months.

SSA published the *Plan for a New Disability Claim Process* (59 FR 47887 (September 19, 1994)), outlining a new approach to disability claim processing. By "reengineering" the claim process, SSA intended to make the process more efficient and user-friendly for claimants and satisfying for employees, to produce the right decision the first time, and to allow for quick effectuation of decisions. Key features of the plan included:

- a new, simplified, disability evaluation process employing a standardized measure of functional capacity and a single "baseline" of occupational demands;
- a consistent quality review process at all adjudication levels;
- a disability claim manager, who would be the sole point of contact for the claimant, and who would handle most of the claim processing at the initial level;
- elimination of two of the existing four steps of the administrative review process (reconsideration and Appeals Council review); and
- a series of initiatives that would "enable" the new process, including improved information technology and "process unification" (a consistent approach to policy at all levels of review).

Although the plan was never fully implemented, many features of it formed the basis for subsequent SSA initiatives intended to improve the disability determination process.

1995 SSA published regulations (660 FR 20023 (April 24, 1995)) allowing it to test modifications to the initial and reconsideration disability determination processes that had been envisioned in the 1994 *Plan for a New Disability Claim Process*. There were four specific "models":

- a disability claim manager;
- a single decision maker;
- a pre-decision interview; and
- elimination of the reconsideration step of the appeal process.

Shortly afterwards, SSA published additional regulations (60 FR 47469 (September 13, 1995)) that allowed it to test the position of "adjudication officer" in the hearing process, a modification that had also been proposed in the 1994 *Plan for a New Disability Claim Process*.

1996 *The Senior Citizens Right to Work Act of 1996* (P.L. 104-121) eliminated SSI and DI benefits for individuals for whom drug addiction or alcoholism was a "contributing factor material to the determination of disability," and required SSA to redetermine the eligibility of people already receiving disability benefits based on a diagnosis of drug addiction or alcoholism.

The Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104-193) made several significant changes to the SSI program with respect to disabled children. It:

- made the SSI definition of disability for children stricter, requiring that a child have "a medically determinable physical or mental impairment which results in marked and severe functional limitations"
- required SSA to eliminate references to maladaptive behavior from the Listing of Impairments;
- required SSA to discontinue individualized functional assessments for children;
- required SSA to conduct CDRs on children who had been allowed based on low birth weight at age 1, and to conduct regular CDRs on other children;
- required redeterminations of disability at age 18 using the adult disability standard; and
- added several new requirements for representative payees of children.

As a part of its "Process Unification" initiative, SSA issued a series of nine Social Security Rulings (61 F.R. 34466 (July 2, 1996)) that addressed a range of disability adjudication policies including the agency's policy on the evaluation of pain and other subjective symptoms, treating source opinions, and residual functional capacity. SSA conducted agency-wide training for all of its 15,000 adjudicators and quality reviewers on the new rulings. Although process unification had been an important component of the 1994 *Plan for a New Disability Claim Process*, its origins were in the 1980s, when class action lawsuits were filed in several States (including Florida, Iowa, Minnesota, Nebraska, Ohio, Oregon, Tennessee, Utah, and West Virginia) challenging the standards and practices used by State DDSs in disability claims. Plaintiffs usually claimed that the policies applied by the DDS in disability decisions were different and stricter than the policies applied at the hearing level by administrative law judges. "Process Unification" became the umbrella under which the agency attempted to respond to the widespread perception that different standards were being applied.

1997 SSA issued interim final rules (62 FR 6408 (February 11, 1997)), implementing the childhood disability provisions of P.L. 104-193 (as further modified by the *Balanced Budget Act of 1997* (P.L. 105-33). These rules revised the disability evaluation process for SSI children by:

- defining the statutory standard of "marked and severe functional limitations" in terms of "listing-level severity," (i.e., an impairment that meets, medically equals, or functionally equals the severity of an impairment in the Listing of Impairments);
- deleting references to the former "comparable severity" standard;
- eliminating the individualized functional assessment; and
- removing references to "maladaptive behavior" in the regulations.

The rules, with minor revisions, were published as final regulations that became effective in 2001 (65 FR 54747 (September 11, 2000)).

In early 1997, SSA announced that it was modifying it's 1994 *Plan for a New Disability Claim Process* to focus on a much smaller number of process changes (62 FR 16210 (April 4, 1997)). The new "Full Process Model" combined several significant changes to the initial disability determination process into a single test:

- a single decision maker – a new position that would give the disability examiner authority to determine eligibility without requiring physician input;
- a pre-decision interview – which offered the claimant an opportunity to talk with the decision maker in order to ensure that all relevant sources of information were identified and contacted prior to denying benefits;
- elimination of the reconsideration step; and
- an adjudication officer – a new position designed to facilitate the appeals process.

In November 1997, SSA began a separate test of the disability claim manager position, another component of the 1994 *Plan* that was intended to improve the initial claims process by having a single individual (the disability claim manager) responsible for the claim.

1998 The *Workforce Investment Act of 1998* (P.L. 105-220) sought to streamline and improve employment, adult education and literacy, training, and vocational rehabilitation programs into a "one-stop" delivery system. Under such a system, states would be obliged to implement workforce development plans that define how the state will meet the needs of certain groups, including individuals with disabilities, and demonstrate how the plans would guarantee equal opportunity and nondiscrimination.

The goal of this Act was to create a nationalized workforce employment and preparation system aimed at improving workforce quality while at the same time reducing welfare dependency. This law sought to assist all job seekers, including those with disabilities as defined by the Social Security Act. In order to guarantee that people with disabilities had universal access to this new workforce system and were able to easily participate, there was great emphasis placed on a directive that mandated disability awareness training for training providers as well as any person employed at these one-stop delivery centers.

The law also mandated an immediate increase in the earnings amount designated as Substantial Gainful Activity (SGA) (for the first time since 1990) as well as an increase in the earnings amount designated for a Trial Work Period (TWP) month. It also allowed for these levels to be adjusted annually based on changes in the Consumer Price Index (CPI) calculated by the Bureau of Labor Statistics.

1999 The *Ticket to Work and Work Incentives Improvement Act of 1999* (P.L. 106-170) created a new work incentive program under which Social Security and SSI disability beneficiaries could receive a voucher (a "ticket") to obtain vocational rehabilitation and other employment support services from providers of their choice. It also:

- provided for expedited re-entitlement to benefits for individuals who were terminated due to work activity;
- extended the period during which a disabled beneficiary could continue receiving Medicare benefits while working (from 24 months to 72 months);
- prohibited medical review of an individual's disability solely on the basis of work activity for beneficiaries who have been receiving SSDI for 24 months;
- expanded State authority originally granted under the *Balanced Budget Act of 1997* to provide Medicaid coverage to working people with disabilities who, because of income and assets, would not otherwise qualify for Medicaid (referred to as "Medicaid Buy-in"); and
- directed the Commissioner of Social Security to carry out experiments and demonstration projects on the treatment of work activity for SSDI beneficiaries.

On May 24, 1999, the Supreme Court issued a decision in *Cleveland v. Policy Management System Corporation, et al.*, 526 U.S. 795 (1999), finding that an individual who claims disability for purposes of entitlement to SSDI benefits is not precluded ("judicially estopped") from making a claim under the *Americans with Disabilities Act* for workplace accommodation. SSA subsequently issued the Court's decision as *SSR 00-1c*.

Building on what it had learned from the "Full Process Model" test begun in 1997, SSA implemented a "prototype" of a new initial disability claim process in 10 States (64 FR 47218 (August 30, 1999)). The prototype used several modifications to the existing process that had been successfully used in the earlier test. These included:

- greater authority for disability examiners, and changes in the role of medical consultants;
- more detailed explanations for disability decisions (employing "Process Unification" principles);
- a pre-decision interview; and
- elimination of the reconsideration step.

2000 SSA issued *SSR 00-4p*, clarifying its policy with respect to reconciling potential conflicts between vocational expert testimony (or other vocational source evidence) and information contained in the *Dictionary of Occupational Titles* (DOT). The ruling provided that SSA decision makers have "an affirmative responsibility to ask about any possible conflict between vocational expert or vocational source evidence and information provided in the *Dictionary of Occupational Titles*." The issue arose from a 1999 decision by the 10th Circuit Court of Appeals in *Haddock v. Apfel*, 196 F.3d 1084, which imposed such a requirement. SSA initially issued an acquiescence ruling [*AR 00-3(1)*] providing that it would not follow the court's ruling nationally, but reversed that position in the new SSR.

Citing an unacceptably long waiting time before receiving an appeal decision, SSA announced a new initiative, the *Hearings Process Improvement Plan*, intended to reduce significantly the time between a request for a hearing and a final decision. The plan was based on a new workflow model for hearing request cases. The new process was supposed to result in more efficient case handling. It also made fundamental changes in the hearing office organizational structure, implementing a team-based approach to case processing.

2001 In its 2001 Performance Plan, SSA described a new initiative to replace the old "Reengineered Disability System" project with the Electronic Disability System (eDIB). The objective of eDIB was to develop a fully electronic, paperless disability process that would:

- improve the availability of disability information across processing components by eliminating reliance on paper folders;
- reduce the cost of mailing, handling, and storing paper folders, and reduce time spent rearranging and photocopying paper files;
- leverage the investment in distributed DDS systems by creating interface with the electronic folder;
- improve the disability interview process by providing automated interview screens as well as a method to electronically capture accurate application data provided by clients;
- enhance processing of disability claims in the hearing office;
- provide a method for exchanging medical records with the health care industry; and
- define electronic folder standards.

2002 In *Barnhart v. Walton*, 535 U.S. 212 (2002), the Supreme Court upheld SSA's interpretation of the 12-month duration of disability requirement in the statutory definition of disability. Walton had claimed that the 12-month requirement was met if an individual had a medical impairment that lasted for 12 months, even if the person's inability to work did not last for 12 months. SSA interpreted the law as requiring that the inability to work must last, or be expected to last, 12 months. In its decision, the Court agreed with SSA. It also upheld SSA's longstanding policy precluding a finding of disability when a claimant returns to work within the 12-month period after onset of an impairment and prior to the agency making the initial decision on the application.

2003 In *Barnhart v. Thomas*, 540 U.S. 20 (2003), the Supreme Court upheld SSA's interpretation of the statutory definition of disability as it related to past work. When finding that a claimant was not disabled because he or she could return to his or her previous work, SSA did so without investigating whether the person's previous work existed in significant numbers in the national economy. Thomas had argued that the statutory provision that referred to work that exists in significant numbers applied to decisions based on the ability to do past work.

SSA implemented a new business process to streamline updates to its Listing of Impairments and to increase outside participation in developing listings' revisions. The initiative called for:

- greater internal agency review of newly revised listings;
- publishing Advance Notices of Proposed Rule Making to seek public input before proposing specific changes, and
- holding public outreach events giving medical experts, claimants, and advocates an opportunity to comment on the agency's medical criteria.

2004 *The Social Security Protection Act of 2004* (P.L. 108-203) included a range of provisions, some of which were related to the work incentives and assistive services stemming from *The Ticket to Work and Work Incentives Improvement Act of 1999*. These included a technical amendment to the Ticket Act, expanded waiver authority in connection with demonstration projects, and a requirement that SSA issue receipts to disabled beneficiaries each time they reported their work and earnings. The Act also made benefits planning, assistance and outreach services and protection and advocacy services available to beneficiaries in SSI 1619(b) States, to those individuals receiving a (SSI) State supplement payment, and to those in an extended period of Medicare eligibility.

SSA began to roll out a new electronic disability claim processing system. The system, renamed Accelerated Electronic Disability (AeDib), used a paperless electronic claim folder to store medical records and other documents that had always been maintained in a paper folder. It featured:

- Internet applications;
- electronic data collection;
- electronic folders, accessible to all users, to store all claim information; and
- automated case processing and management system.

2005 In January 2005, Mississippi became the first State to implement Social Security's new fully electronic disability application process under its AeDib initiative.

The Deficit Reduction Act of 2005 (P.L. 109 171) required SSA to review a specific percentage of favorable initial SSI disability and blindness decisions made by DDSs with respect to individuals aged 18 and older. The reviews would be conducted before any implementation action. The law required SSA to review 20 percent of the allowances in 2006, 40 percent in 2007, and 50 percent in 2008 and thereafter.

2006 On March 31, 2006, SSA described a "new approach" to disability claim adjudication in the *Administrative Review Process for Adjudicating Initial Disability Claims* (71 FR 16424). Referred to as the "Disability Service Improvement," the plan was intended to reduce processing time, increase decision consistency and accuracy, make the right decision as early as possible, hold all adjudicators responsible for adjudication quality, and ensure that claimants provide evidence timely. It featured:

- a "quick decision" process to approve obvious allowances within 20 days;
- a network of medical and vocational experts for claims at all levels of adjudication, along with uniform qualification standards and payment rates;
- a new "reviewing official" step to replace the reconsideration;
- a Decision Review Board to replace the Appeals Council;
- several new or modified procedural rules intended to streamline the process;
- a new quality review process and increased Federal involvement in training adjudicators at all levels; and
- a Disability Program Policy Council to make policy and procedural recommendations.

2007 SSA announced a new plan to eliminate the backlog of hearing requests, and to prevent its recurrence. The plan proposed to:

- implement a new "Compassionate Allowances" procedure to easily and quickly identify the most obvious allowance cases;
- improve hearing office procedures;
- increase adjudicatory capacity in hearing offices; and
- increase efficiency with automation and improved business processes.

2008 SSA began testing the use of new technology to receive medical records through the Nationwide Health Information Network. After finding significantly reduced processing times using this new Health Information Technology, SSA established the Medical Evidence Gathering and Analysis Through Health Information Technology program to expand its use in the disability programs. In February 2010, the agency awarded $24 million in contracts to several health care providers, provider networks, and health information exchanges to enable them to provide SSA with electronic medical records.

SSA implemented its new "Compassionate Allowances" process to expedite disability claims decisions for people whose medical conditions were so severe that they obviously met Social Security's standards. The process started with a list of 50 conditions that warranted expedited case processing and has expanded to over 100 conditions.

In October 2008, SSA contracted with the Institute of Medicine of the National Academies to establish a standing committee of medical experts to advise the agency on how to keep the Listing of Impairments up to date. The committee surveys literature, looks for ideas to improve the listings, holds meetings, and organizes workgroups and public sessions.

2009 The *WIPA and PABSS Reauthorization Act of 2009* (P.L. 111-63) extended funding for the Work Incentives Planning and Assistance program and the Protection and Advocacy for Beneficiaries of Social Security program through FY 2010. In 2010, this funding was extended through FY 2011 in the *WIPA and PABSS Extension Act of 2010* (P.L. 111-280).

D. Important Recent Court Cases and Litigation Affecting the Disability Process

ISSUE: Medical Improvement Standard

The principal court cases involving the medical improvement standard include Morrison, Doe, and Decker, (WA), Holden (OH), Lopez (9th Circuit).

Lawsuits were filed in the 1980s challenging the standard that SSA used to cease disability benefits for cases that were undergoing a continuing disability review. As a result of the *Social Security Disability Benefits Reform Act of 1984* (P.L. 98-460), there were 17 medical improvement cases that were remanded to SSA to have the cases reviewed under the new medical improvement standard established in the law.

ISSUE: Pain and Other Symptoms

The principal court cases involving the assessment of pain and other symptoms include Hyatt (NC), Luna (CO), and Polaski (8th Circuit).

The *Social Security Disability Benefits Reform Act of 1984* (P.L. 98-460), codified SSA's policy for evaluating pain. It sunset on January 1, 1987 and was not replaced.

In the 1980s, both before and after P.L. 98-460, there was much litigation over how SSA assessed allegations of pain. Although the agency concluded that the court rulings were not in conflict with its policy, many courts found that SSA did not give adequate consideration to the claimant's allegations and other subjective evidence, and instead relied too heavily on objective medical findings to substantiate or rebut pain allegations. In November 1991, SSA issued an agency regulation that incorporated the pain standard that was articulated in the Polaski case.

ISSUE: Treating Physician's Opinion

The principal court cases involving treating physician's opinion include Schisler (NY), and Aldrich (VT).

Until the 1980s there were no agency regulations on this issue except a short rule that said SSA was not bound by a treating physician's opinion about whether a claimant was disabled. Prior to August 1991, several circuit court decisions, including the Schisler case, pointed to the need for a clear policy statement that would encourage adjudication uniformity and provide the public and the courts with a clear explanation of SSA's policy on the weighing of treating source opinions.

The Schisler ruling issued on March 8, 1989 and effective in the States of the 2nd Circuit (NY, VT, and CT), was written by the court because it found that the language drafted by SSA was, in the court's view, out of synch with 2nd Circuit law. Recognizing the need for detailed regulations to provide uniformity across the country, SSA issued regulations on medical source opinion that were published in August 1991. The regulations were challenged in the 2nd Circuit, and in the third of the Schisler decisions, a unanimous court upheld them as within the Commissioner's authority to make rules even though it was not completely consistent with 2nd Circuit law up to that point.

ISSUE: Disabled Widow(er)s

The principal court cases involving disabled widows include Hill (NY), Askin (11th Circuit), Begley (TN), and Bozzi (3rd Circuit).

The issue in these cases was the medical evaluation standard that SSA used in determining disability in disabled widow, widower, or surviving divorced spouse claims. The agency did not provide these individuals with a residual functional capacity evaluation when adjudicating their disability claim. The standard that adjudicators must use for evaluating a widow's entitlement after December 1990 is required by the *Omnibus Budget Reconciliation Act of 1990* (P.L. 101-508). The standard for evaluating a widow's entitlement before January 1991 is required by the SSR 91-3p, which was published on May 5, 1991.

ISSUE: HIV/AIDS

The principal court cases involving HIV/AIDS include Rosetti (3rd Circuit), and S.P. (NY).

The issue was the standards, policies, practices, and procedures that SSA used in evaluating disability claims based in whole or in part on infection with HIV/AIDS. Plaintiffs alleged that SSA failed to promulgate properly regulations for claimants suffering from HIV/AIDS by publishing them in the *Federal Register* for public comments. HIV/AIDS was subsequently established as an impairment in SSA's Listings of Impairments (14.08 and 114.008).

ISSUE: Not Severe

A principal court case involving "not severe" is Dixon (NY).

This case challenged the validity of SSA's regulations that dealt with non-severe impairments (i.e., step 2 of the agency's sequential evaluation process) and SSA's policy of not considering the combined

effect of unrelated non-severe impairments. Following the 1987 decision of the Supreme Court in Bowen v. Yuckert, where the Court upheld the validity of step 2, the plaintiffs amended their complaint to allege misapplication of the non-severe standard. (By misapplication the Court meant that SSA was using a standard at step 2 that denied disability claims as not severe when the impairment was more than *de minimis*.) The district court found that SSA had misapplied step 2 as early as 1976. This led to a change in SSA policy regarding how the agency treats the combined effect of unrelated non-severe impairments in disability determinations.

ISSUE: Disability Determination Services' (DDS') Liability under 42 U.S.C. Section 1983

A principal court case involving DDS liability under section 1983 is Schoolcraft (MN).

The plaintiffs alleged that the Secretary of HHS and the Minnesota DDS were not applying the same disability evaluation standard at each stage of the administrative process. Plaintiffs proposed that the court certify a class that would include all title II and title XVI disability claimants in Minnesota who had not received a hearing decision. The district court dismissed the claim on the grounds that the named litigants had not exhausted the administrative remedies provided under the *Social Security Act*, i.e., they had not satisfied section 405(g) exhaustion requirements before going to court. The 8th Circuit reversed the district court's decision. This court waived the exhaustion requirements under the Supreme Court's ruling in Bowen v. City of New York and also found that the plaintiffs had a cause of action against the State, under section 1983, which provides a basis for suits against agencies acting under color of State law.

A number of class action complaints (e.g., Miller, Kildare, Sorenson) have asserted jurisdiction under this section. SSA has made numerous requests for a legislative change that would exempt the State DDSs from liability under section 1983.

ISSUE: Durational Requirement and Trial Work Period

A principal court case involving the duration requirement is Walton (4th Circuit).

The *Social Security Act* defines disability as the "inability to engage in any substantial gainful activity (SGA) by reason of any…impairment…which has lasted or can be expected to last for…not less than 12 months." SSA interprets this to mean that the inability to engage in SGA, not just the impairment, must last or be expected to last for 12 months. The 4th Circuit, however, in the Walton case, issued a decision on December 12, 2000 finding that a claimant is entitled to disability benefits if the *impairment* meets the death or 12 month duration requirement (in direct contrast to SSA's interpretation).

Walton also raised another issue: whether a claimant, who engages in SGA within 12 months of onset of disability, and before final adjudication, is entitled to a trial work period. This issue had been considered by the 10th, 7th, 8th, 6th, and 4th Circuits and all ruled against SSA. They held that a trial work period is possible if the individual returns to work within 12 months of onset provided that the return to work did not occur before the end of the 5-month waiting period.

SSA appealed the courts' decisions to the Supreme Court. In March 2002 that Court held that the agency's interpretations of the statute fell within its lawful interpretative authority. Justice Breyer noted that the Administration has determined in both its formal regulations and its interpretation of those regulations that an "inability" must last the same amount of time as an "impairment," or last or be expected to last not less than 12 months.

ISSUE: Acquiescence

A principal court case involving acquiescence is Stieberger (NY).

Since 1985, SSA has had an acquiescence policy that it reviews all circuit court decisions to determine whether the decision contains any holdings that conflict with SSA's interpretation of the *Social Security Act* or regulations. If a conflict is identified, an acquiescence ruling is published in the *Federal Register* that explains how SSA will apply the holding.

Over the years SSA has made incremental refinements to improve its acquiescence process, including a 1990 expansion of the policy to involve all levels of the adjudication process. An explanation of its acquiescence policy is codified in the regulations (20 CFR 404.985 and 416.1485).

As part of its Process Unification initiative, SSA issued SSR 96-1p restating its longstanding acquiescence policy. Examples of acquiescence rulings that required changes to regulations to restore uniformity to national policy include:

- Haddock (AR 00 – 3(1)) – Discusses whether, when evaluating vocational expert testimony in support a finding of "no disability," an ALJ must ask the vocational expert if his or her testimony is consistent with the *Dictionary of Occupational Titles*.
- Curry (AR 00- 04(2)) – Describes the burden of proving residual functional capacity at step 5 of the sequential evaluation process.

- Hickman (AR 00-02(7)) – Provides evidentiary requirements for determining medical equivalence to a listed impairment.
- Kerns (AR 99-00(8)) – Describes the definition of highly marketable skills for individuals close to retirement age.
- Sykes (AR 01-1(3)) – Discusses using the "grid" rules as a framework for decision-making when an individual's occupational base is eroded by a non-exertional impairment.

ISSUE: Litigation that Led to SSA's Process Unification Initiative

The principal court cases that led to SSA's Process Unification initiative include Samuels (TN), Day (OH), Bentley (FL), Goodnight (UT), Boring and Miller (WV), Schoolcraft (MN), Sorenson (OR), Laird (IA), and Surrell (NE).

Starting in the 1980s, plaintiffs brought class action suits challenging the standards and practices used by State DDSs in developing and deciding disability claims. Although most class members had not exhausted their administrative remedies and many had not appealed within the 60-day time limit, the courts routinely waived exhaustion and tolled the 60 day time limit by citing the Supreme Court's decision in Bowen v. City of New York.

DDS challenges were brought in many States. In some cases the court found error in a DDS process or procedure. In other cases the court strongly urged settlement before reaching a decision on the merits.

Litigation was long drawn out in some of these DDS class actions, and SSA settled in most of them. Implementing the class relief was very costly to the agency.

ISSUE: Process Unification Initiative

A principal case involving the Process Unification initiative is Rosa v. Callahan (2nd Circuit).

In DDS class action cases, plaintiffs commonly allege that the standards used by the DDSs for case development and adjudication are much stricter than the standards used by administrative law judges (ALJs). During some court depositions, some ALJs and DDS personnel have stated that they share that perception. In the mid-1990s, SSA attempted to ensure more consistent decisions by implementing its Process Unification initiative. As part of this initiative, in 1996 the agency issued a series of Social Security Rulings that 1) require adjudicators to fully explain in their decisions why a claimant was found credible or not credible, 2) how opinion evidence from various sources (especially treating sources) is weighed, and 3) what record evidence supports assessments of residual functional capacity.

Some courts, especially in the 2nd Circuit, are increasingly emphasizing the ALJ's responsibility to fully develop the record in accordance with the regulations. Courts are remanding cases to recontact a treating physician to fill in any gaps and to resolve ambiguities or conflicts in the record. In Rosa v. Callahan, the 2nd Circuit held that the ALJ failed to develop the medical record adequately and relied upon consultative examination reports that did not address the claimant's residual functional capacity to perform a full range of sedentary work.

ISSUE: Challenges to the Consultative Examination Process

The principal cases involving challenges to the consultative examination (CE) process include Miller (WV), Moncayo (9th Circuit), and Kildare (CA).

When making a disability determination, if the claimant's treating sources are unable or unwilling to provide sufficient medical information about the individual's impairments, or if the claimant has no treating source, then SSA will purchase the necessary examinations or tests. SSA's regulations provide that a CE must be performed by a qualified medical source that is licensed in the State and has the training and experience to perform the type of examination or test requested.

Three class actions, Miller (WV), Moncayo (9th Circuit), and Kildare (CA) challenged the quality and use of CEs and SSA's oversight of the CE process. In all three cases the courts dismissed the cases.

In Miller, the court dismissed the case against SSA and the State of West Virginia, finding that it had no jurisdiction under the Administrative Procedures Act's provisions on judicial review because the agency's enforcement of the CE process was committed to agency discretion by statute. Plaintiffs' counsel appealed to the 4th Circuit against the State only. A decision by the court is pending.

In Moncayo, the court dismissed the case based on lack of jurisdiction because plaintiffs failed to exhaust their administrative remedies.

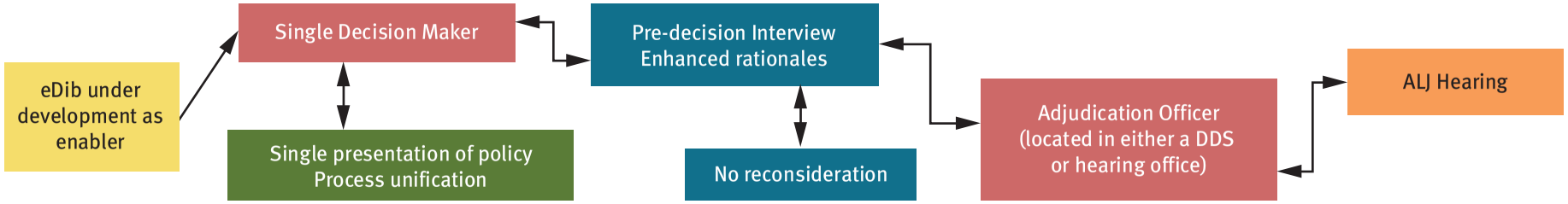
In Kildare, the case was ultimately dismissed due to lack of jurisdiction over the Federal defendants because the plaintiffs failed to exhaust their administrative remedies. Also, the court dismissed the case against the State defendants because plaintiffs failed to show they had been deprived due process by the State.

E. Key Elements of Past Disability Process Tests

- eDib; Electronic Folder, ODAR case processing initiatives underpin all of these tests and pilots
- Changes in existing staff positions or the creation of new positions
- Changes in policy at the initial claims or appeals levels
- Changes to existing business processes
- Institution of quality reviews or changes to existing quality review
- Hearing level changes

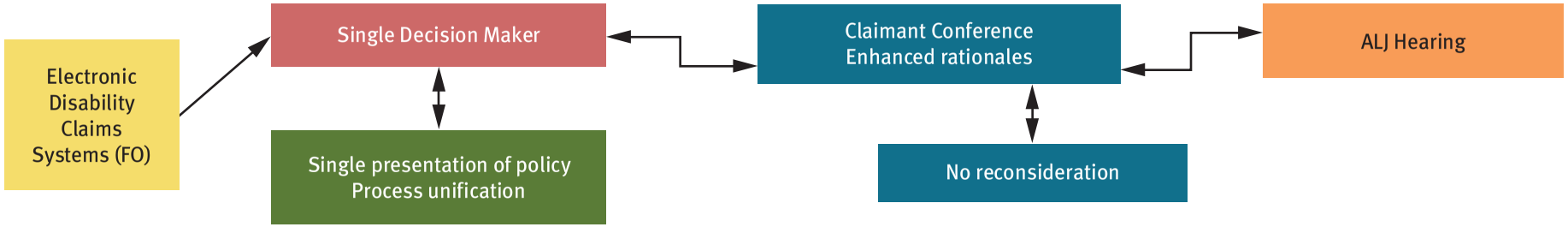
DISABILITY REDESIGN: FULL PROCESS MODEL[i]

1994 – February 1999



PROTOTYPE (10 states)[ii]

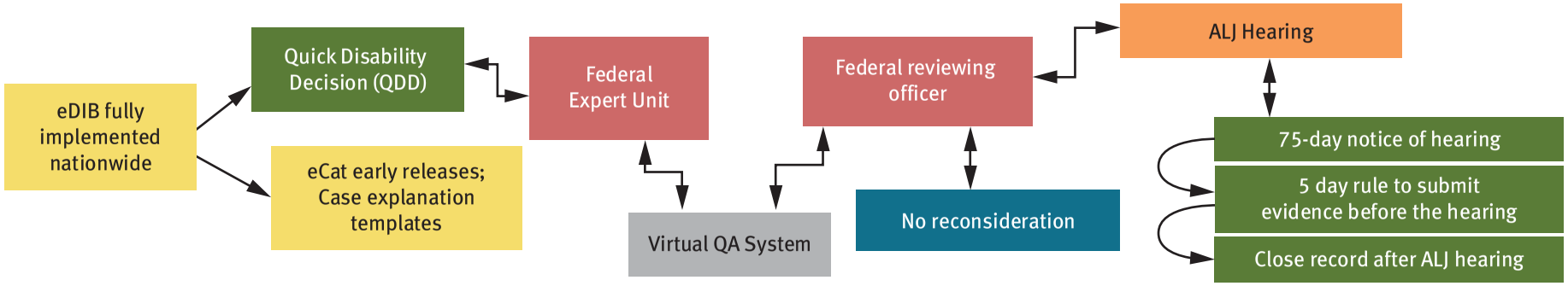
March 1999 – present



[i] Tests focused primarily on the DDS process.
[ii] Modified the Full Process Model and eliminated the adjudication officer.

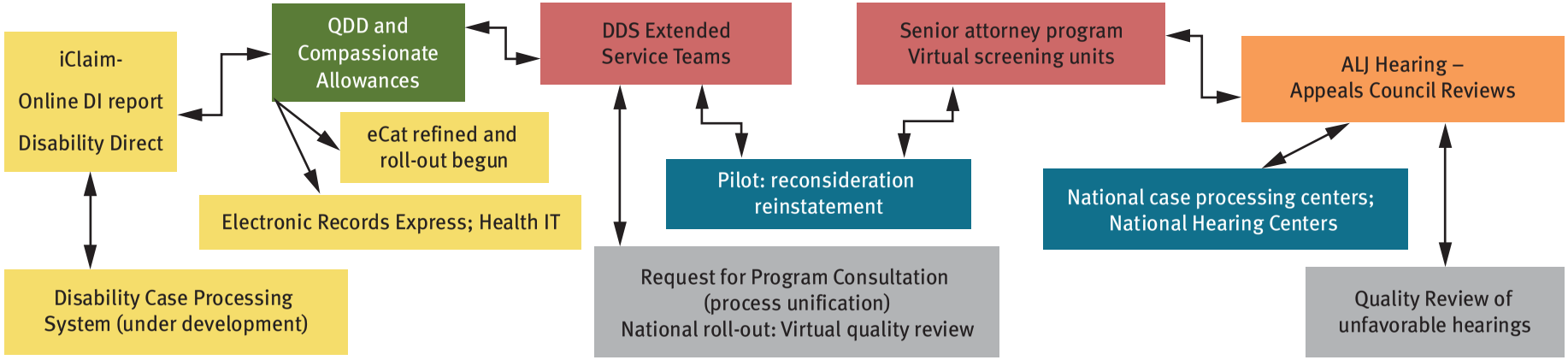
DISABILITY SERVICE IMPROVEMENT[iii,iv]

Implemented in Boston Region only: August 2006 – May 2008



DISABILITY INITIATIVES [v, vi]

Pilots and phased national implementation: September 2007 – present



[iii] Intended to be phased in; prototype still running; Single Decision Maker not in DSI.

[iv] Under DSI, the eDib project was accelerated, becoming AeDib. This included the creation of the electronic folder and the ability to move workloads around electronically. The Federal Expert Unit (a centralized consultant unit of medical and vocational experts) would benefit from this because staff would be able to review and advise on claims from anywhere in the country. Similarly, the virtual quality review system was intended to distribute case quality reviews nationwide.

[v] Prototype process still in place. Initiatives displayed reflect enhancements to "normal" case processing.

[vi] 5-day rule was intended to require that all medical evidence be submitted to the ALJ at least 5 days before the hearing. In January 2008, a Notice of Proposed Rulemaking suspended this and the proposal to close the record.

Part III. Staff Components of the Social Security Administration with Responsibilities in the Disability Process

Nearly every staff component of the Social Security Administration has a role in administering the Social Security disability programs. Outlined below is a list of those components and their responsibilities in the disability process.

Office of the Commissioner

The Commissioner is directly responsible for all programs administered by SSA, including the disability programs. He provides executive leadership to the agency. Among other things, his office is responsible for development of disability policy, administrative and program direction, and program interpretation and evaluation. The Commissioner is responsible for ensuring to the public, the Congress, and the President that the disability programs are working as the law requires.

The Office of International Programs develops and implements policies and coordinates activities relating to the operation of Social Security programs (including the disability programs) outside of the United States. The office:

- negotiates and administers international Social Security agreements that include disability benefits, and
- provides training programs and technical consultation on Social Security programs, including the disability programs, to Social Security officials and other experts outside of the United States.

Office of Budget, Finance, and Management

The Office of Budget, Finance, and Management directs the administration of SSA's budget, acquisitions and grants, facilities management and publications.

The Office of Budget prepares budgets and full-time equivalent allocations for all staff components within SSA, as well as for the State Disability Determination Services (DDSs).

The Office of Acquisition and Grants prepares and manages contracts and grants for disability-related research and demonstration projects. The office has oversight responsibility for contracts that are awarded to medical and vocational experts who provide assistance to the DDSs and hearing offices in making disability determinations.

The Office of Facilities Management manages office space and file storage facilities on behalf of the agency. This includes field offices, hearing offices, and the program service centers where retirement, survivors and disability claims are processed.

Office of the Chief Actuary

The Office of the Chief Actuary prepares long- and short-range estimates regarding prevalence of disability, numbers of disability applicants and beneficiaries, and other disability-related workload data. The office also prepares long- and short-range estimates of the disability Trust Fund and cost estimates for legislative proposals. In addition, the office provides program statistics to other SSA staff components for use in conducting studies, audits, and drafting policy statements related to the disability process.

Office of Communications

The Office of Communications produces pamphlets, booklets, fact sheets, videos, and information kits about disability benefits. It is the primary liaison with the press, other government and non-government agencies, and disability advocates on issues relating to SSA's activities. The office responds to public inquiries on a range of program issues, including requests from individuals regarding their claims for disability benefits.

Office of Disability Adjudication and Review

The Office of Disability Adjudication and Review provides the mechanisms for individuals to administratively appeal decisions (including disability determinations) made on their case.

The Office of the Chief Administrative Law Judge manages the hearings process through a nationwide network of hearing offices and supporting regional offices, including the National Hearing Centers. Much of the hearings workload is disability-related. This office carries out its responsibilities by:

- maintaining an administrative law judge corps that conducts hearings and renders decisions on cases appealed to the hearing level, and
- providing support staffs to prepare cases for hearing, work with claimants and their representatives to schedule hearings, and write the decisions as directed by the ALJs.

The Office of Appellate Operations manages SSA's final level of administrative appeal. The responsibilities of the office include:

- reviewing and rendering decisions on cases appealed by the claimant after the hearing decision or cases identified on its own motion,
- remanding cases back to ALJs for further action; processing cases remanded back to the agency from the Federal courts, and
- tracking and analyzing court case trends and disseminating information to guide adjudicators with respect to case law.

Office of the General Counsel

The Office of General Counsel defends SSA in disability cases before the courts. The office works routinely with other SSA staff components to write and interpret disability policy for the agency, based on court decisions, Congressional mandates, and agency initiatives. The General Counsel advises the Commissioner on legal matters, including ones involving the disability program, and is responsible for providing all legal advice to the Commissioner and Deputy Commissioners of SSA regarding the operation and administration of SSA.

Office of Human Resources

The Office of Human Resources is responsible for personnel services for SSA's staff components that handle disability issues. Within the Office of Human Resources, the Office of Learning plans and produces training on disability-related policy issues.

Office of the Inspector General

The Office of the Inspector General conducts audits of disability programs to ensure fiscal and program integrity, and also to ensure that program directives are met. It also conducts fraud investigations of disability-related cases in cooperation with field offices, DDSs, and local law enforcement.

Office of Legislation and Congressional Affairs

The Office of Legislation and Congressional Affairs serves as the focal point for all legislative activity in SSA, including those related to the disability programs. It analyzes legislative and regulatory initiatives and develops specific positions and amendments. With input from other SSA staff components, the office develops legislative proposals regarding the disability programs. It is responsible for briefing White House and Congressional staffs on legislative proposals and responding to questions raised about the disability issues.

Office of Operations

The Office of Operations oversees the operation of SSA's field and regional offices, as well as the teleservice and program service centers. These staff components are the public face of SSA.

Teleservice center employees provide much of SSA's telephone service and offer information to the public, schedule appointments for individuals wanting to apply for disability benefits, and handle routine changes that beneficiaries may need to make once they start receiving payments.

Field office employees provide information about the disability programs to claimants and potential claimants, assist individuals with the disability application process, and adjudicate the more routine disability claims. They also process continuing disability reviews by updating claimants' medical status and handle return-to-work reports from disability beneficiaries.

Program service centers (including the Office of Central Operations) processes certain disability claims and maintains disability beneficiary rolls after entitlement. The program service centers are responsible for the adjudication of complex claims including those involving benefit payment offsets.

Regional offices have oversight responsibilities for the State DDSs in their regions, and are the primary liaison between SSA and the DDSs. Their duties include managing DDS workload and budget issues (along with the Office of Disability Determinations), providing support to DDS automation activities, and monitoring DDS performance. Regional office staffs also answer field office and DDS questions regarding disability policy and serve as liaison with the regional quality review staff.

The Office of Disability Determinations is SSA's lead staff component for State DDS workload and budget. By working closely with the regional offices, the office provides guidance and oversight of the national disability workload and budget. Its responsibilities include:

- developing and submitting budget proposals to SSA's Office of Budget for disability programs, initiatives, and mandates. This includes developing budgets for DDS operations and automation activities, based on DDS input;
- planning, coordinating, and managing systems-related activities for DDS automation initiatives including the development of user specifications; and
- analyzing, planning, distributing, and monitoring all DDS funding on a State-by-State basis, and establishing and monitoring workload and productivity targets for each DDS.

Office of Quality Performance

The Office of Quality Performance assesses performance and program quality, working collaboratively with other SSA staff components to improve it throughout the agency. The office conducts quality reviews, studies, and statistical analyses of SSA's programs (including the disability program), business processes, and service delivery.

The Office of Quality Review evaluates and assesses the integrity and quality of the administration of SSA's programs. It performs a quality review of disability claims (both denials and allowances) at the initial and reconsideration levels. It also performs mandated pre-effectuation reviews and special studies of disability cases.

The Office of Quality Data Management serves as a clearinghouse for quality data management activities. It manages, updates, and designs selection models for workloads such continuing disability reviews.

Office of Retirement and Disability Policy

The Office of Retirement and Disability Policy has the primary responsibility at SSA for all major activities in the areas of strategic and disability program policy planning, disability policy research and evaluation, statistical programs, and overall disability policy development, analysis and implementation.

The Office of Disability Programs plans, develops, evaluates and issues policies and procedures for SSA's disability programs. This includes providing guidance to the medical personnel working in SSA's central and regional offices and the DDSs. It carries out its responsibilities by:

- coordinating and providing policies, procedures, and process requirements in support of electronic disability processes,
- maintaining data and conducting data analyses, and developing studies to identify areas where policy clarification is needed,
- resolving conflicting opinions between adjudicators and quality reviewers regarding disability determinations through its program consultation process, and
- developing training programs for disability adjudicators.

The Office of Medical and Vocational Expertise provides analytical support in the development, application and evaluation of disability policies and procedures. It also provides adjudicative assistance to the DDSs. The office's responsibilities include:

- maintaining a cadre of medical and psychological specialists that assists disability adjudicators in processing cases,
- performing timely and appropriate actions needed to evaluate and adjudicate disability cases, and
- identifying and analyzing disability issues through case reviews that impact the operation, funding, and quality of the disability programs.

The Office of Employment Support Programs develops and administers policies that are designed to promote the employment of beneficiaries with disabilities. The office is also responsible for implementing the *Ticket to Work and Work Incentives Improvement Act*. Responsibilities of the office include:

- providing operational advice, technical support, and direction to SSA's central office, regional offices, and field offices in implementing the agency's employment support programs, and
- assisting with public educational activities about disability program work incentives, rehabilitation, and other forms of employment supports.

The Office of Income Security Programs develops, coordinates, and issues Retirement and Survivors Insurance and Supplemental Security Income policies and non-medical administrative policies that affect the adjudication of disability claims. It plays an important role in the disability program in that many individuals who file for retirement

benefits also file for disability, and most individuals who apply for SSI concurrently file for DI benefits. Disability related responsibilities include:

- developing agreements with States and other agencies that govern State supplements and Medicaid eligibility, and
- coordinating Medicare issues with the Centers for Medicare and Medicaid Services.

The Office of Program Development and Research provides program analysis and development in support of the disability programs. The office:

- directs studies of policy issues of disability program initiatives and legislative and policy proposals,
- identifies trends in the disability programs and compiles and analyzes data on aspects of the programs, and
- designs, implements, and evaluates disability demonstration projects targeting special populations and program issues.

The Office of Research, Evaluation and Statistics provides statistical data on both the Old-Age, Survivors, and Disability Insurance program and the Supplemental Security Income program.

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Part V. Glossary

Administrative law judge: Administrative law judges in SSA's Office Disability Adjudication and Review conduct hearings and make decisions on cases appealed by claimants.

Administrative review process: The procedures followed in determining eligibility for, and entitlement to, benefits. The administrative review process consists of several steps, which usually must be requested within certain time limits and in the following order:

1. The DDS makes the initial decision on disability, and an SSA field office makes the initial decision on non-disability factors, such as insured status, income, and resources.
2. Reconsideration: When an individual disagrees with the initial determination, he or she may ask for an independent reexamination of the case.
3. Hearing before an administrative law judge (ALJ): When an individual disagrees with the reconsidered determination, he or she may request a hearing before an ALJ.
4. Appeals Council review: When an individual disagrees with the decision or dismissal by the ALJ, he or she may request that the Appeals Council review that decision. The Appeals Council may agree to or reject the request for review and may also initiate a review on its own motion. Individuals who disagree with a final administrative decision may pursue their appeals through the Federal District Court, the Circuit Court of Appeals, and the Supreme Court.

ALJ: See administrative law judge.

Allowance rate: The percentage of claims allowed in a given time period. At the hearing level, allowance rates are computed either as a percentage of dispositions (including dismissals) or as a percentage of decisions (excluding dismissals).

Appeals Council: The organization within SSA's Office of Disability Adjudication and Review that makes the final decision in the administrative review process. See administrative review process.

Attrition rate: The number of full time staff separations during a fiscal year divided by the average full time staff level for the year.

Average: Values shown as averages in this chart book are arithmetic means.

Award: An action adding an individual to the Social Security benefit rolls.

Beneficiary: An individual on the Social Security benefit rolls.

Claimant: An individual who has applied for benefits and whose claim is still pending.

Compassionate Allowance: A process to expedite the disability decision for an applicant with a specific medical condition so severe that the person obviously meets SSA's disability standard. SSA has currently identified over 100 such conditions.

Concurrent claim: A claim for both Title II (OASDI) and Title XVI (SSI) benefits.

Consultative examination: A physical or mental examination purchased by SSA from a treating source or another medical source. The examination is usually purchased when the claimant's medical sources cannot or will not provide SSA with sufficient medical evidence about the individual's impairment.

Continuing disability review (CDR): A periodic reevaluation of a disabled beneficiary's impairments to determine if the individual is still disabled within the meaning of the law. (See medical improvement review standard.)

Conversion: The simultaneous cessation of payment of a specific type of benefit and a switch over to entitlement of the beneficiary to another type of benefit. Title II disabled worker beneficiaries are converted to retirement benefits when they attain normal retirement age.

DDS: See Disability Determination Services.

Decisional accuracy: SSA measures the accuracy of DDS initial decisions through a quality assurance review process. This process randomly samples DDS decisions to capture 70 initial allowances and 70 initial denials per quarter for each DDS. The accuracy rate is based on the percentage of cases sampled that have neither a decisional deficiency (where the case file contains sufficient documentation to support an opposite decision) nor a documentation deficiency (where the medical documentation in file is not sufficient to support any disability determination).

DI: Disability Insurance under Title II of the *Social Security Act*.

DI Worker: An individual entitled to Disability Insurance benefits based on his or her own earnings account.

Disability: For purposes of Title II (OASDI) benefits and of Title XVI (SSI) benefits for adults, disability is the inability to engage in any substantial gainful activity by reason of any medically determinable impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months. A person must not only be unable to do his or her previous work but cannot, considering age, education, and work experience, engage in any other kind of substantial gainful work that exists in the national economy. It is immaterial whether such work exists in the immediate area, or whether a specific job vacancy exists, or whether the worker would be hired if he or she applied for work. For SSI disabled child benefits, a child under age 18 is considered disabled if he or she has any medically determinable physical or mental impairment(s) which result(s) in marked and severe functional limitations, and which can be expected to last for a continuous period of not less than 12 months.

Disability Determination Services (DDS): The State agency which makes the initial and reconsideration determination of whether a claimant is disabled or a beneficiary continues to be disabled within the meaning of the law.

Disability examiner: An employee of a State Disability Determination Services who collects and analyzes medical evidence and, in conjunction with a medical professional, makes the determination on a claimant's disability.

Duration: To be eligible for benefits, a claimant must have a disabling impairment that has lasted or is expected to last for a continuous period of at least 12 months or to result in death. (See sequential evaluation process.)

eDib: SSA's electronic disability case processing system that allows the agency to process claims in a fully electronic environment. Paper copies of any evidence or documents are converted to and stored in an electronic format.

Equals the Listing: A step in the sequential evaluation process. An impairment may be found to be "medically equivalent" to an impairment(s) found in the Listing of Impairments if the relevant medical signs, symptoms, and laboratory findings are equal in severity to those of a listed impairment. (See sequential evaluation and Listing of Impairments.)

Examiner: See Disability Examiner.

Hearing: The level following reconsideration in the administrative review process. The hearing is a *de novo* procedure at which the claimant and/or the representative may appear in person, submit new evidence, examine the evidence used in making the determination under review, give testimony, and present and question witnesses. The hearing is on the record but is informal and non-adversarial.

Hearing office: SSA's Office of Disability Adjudication and Review has 161 hearing offices (including seven satellite offices)around the country where hearings are held.

Incidence: The number of persons awarded benefits in a specified period of time, per 1,000 of a specified population. For DI benefits, the incidence rate is the number of awards in a given year per 1,000 persons insured for disability benefits.

Listing of Impairments: The Listing of Impairments contains specific medical findings that either establish a diagnosis or confirm the existence of an impairment. The Listing of Impairments is divided into two parts – Part A describes, for each major body system, impairments that are considered severe enough to prevent an adult from doing any gainful activity. Part B contains additional criteria that apply only to the evaluation of impairments of individuals under the age of 18. An impairment that meets or equals the criteria in the Listings is sufficient to establish that an individual who is not working is disabled within the meaning of the law. (See sequential evaluation.)

Medical expert: A physician or mental health professional who provides impartial expert opinion at the hearing level of the SSA disability claims process.

Medical Improvement Review Standard: The evaluation criteria used to determine whether a beneficiary continues to be disabled. Medical improvement will be found when there is a decrease

in the medical severity of a beneficiary's impairment and that decrease is related to the ability to work. (See continuing disability review.)

Meets the Listing: A step in the sequential evaluation process. When the specific medical findings in a particular Listing are documented by the required medical signs, symptoms, and laboratory findings, then the individual will be found to meet the relevant Listing. (See sequential evaluation process and Listing of Impairments.)

Non-severe impairment: An impairment that does not significantly limit a person's physical or mental ability to perform basic work activities. (See sequential evaluation process.)

Other work: Work that exists in the national economy, other than the work a person has done previously. (See sequential evaluation process.)

Prevalence: The total number of individuals receiving benefits per 1,000 of a specified population. For DI benefits, the prevalence rate is the total number of beneficiaries per 1,000 persons insured for disability benefits.

Prototype: The prototype process, begun in 1999, tests an alternative initial disability claims process in 10 States. The core elements include greater authority for disability examiners; a requirement for a more detailed case explanation; a pre-decision interview; and the elimination of the reconsideration step. This test continues today.

Quick Disability Decision: A process based on predictive modeling that quickly identifies obvious allowances and expedites the adjudication process.

Reconsideration: An independent reexamination by the DDS of all evidence on record related to a case. It is based on the evidence submitted for the initial determination plus any additional evidence and information that the claimant or the representative may submit in connection with the reconsideration. This determination is made by a different adjudicative team from the one who made the original determination. (See administrative review process.)

Sequential evaluation process: The 5-step process used in determining whether an individual meets the definition of disability in the law. The steps are:

1. Substantial gainful activity. If the claimant is continuing to work and that work is found to be substantial gainful activity the process ends, with a finding that he or she is not disabled.
2. Medical severity. If it is determined that the claimant's medical impairments do not significantly limit the ability to perform basic work activities, the process ends, with a finding that he or she is not disabled.
3. Listing of Impairments. If a claimant has an impairment that meets the criteria listed in the regulations, or has an impairment or combination of impairments that is medically equivalent, the process ends, with a finding that he or she is disabled.
4. Relevant past work. If a claimant's impairments do not prevent performance of relevant work he or she has done in the past, the process ends, with a finding that he or she is not disabled.
5. Other work. At this step, if a claimant, considering age, education, and work experience, cannot do other work which exists in the national economy, he or she is found disabled; otherwise he or she is found not disabled. (See also Duration.)

SSI: Supplemental Security Income, Title XVI of the *Social Security Act*, a program that provides benefits to low-income aged, blind, and disabled individuals whose income and assets do not exceed specified limits.

State agency: A common term for Disability Determination Services.

Substantial gainful activity: A level of work or earnings that makes an individual ineligible for disability benefits.

Termination: The ending of entitlement to a type of benefit. Disabled workers' benefits are most commonly terminated because of death, conversion to a retirement benefit at the normal retirement age, or recovery from their disabling condition.

Usual work: A claimant's past relevant work. (See sequential evaluation process.)

Vocational considerations: Age, education, and work experience, considered at the final step of the sequential evaluation process.

Vocational expert: A professional expert on the availability and occupational requirements of jobs

in the labor market who provides impartial expert opinion at the hearing level of the SSA disability claims process.

Zebley: The Supreme Court's *Sullivan v. Zebley* decision ruled that SSA's policy regarding disability determinations for children in the SSI program erroneously held children to a stricter definition of disability than adults. As a result of the *Zebley* decision, SSA issued regulations requiring an individualized functional assessment for children who did not meet or equal the medical Listings. In 1997, Congress enacted legislation establishing a new definition of disability for SSI children that eliminated the individualized functional assessment and replaced it with a statutory standard of "marked and severe functional limitations."

Part VI. Members of the Social Security Advisory Board and Staff

Marsha Rose Katz, Acting Chair

Marsha Rose Katz is a Project Director at the University of Montana Rural Institute in Missoula, where her work has concentrated on assisting persons with disabilities to utilize Social Security work incentives to start their own businesses or engage in wage employment. Since coming to the Rural Institute in 1999, Ms. Katz has focused on providing training and technical assistance on both employment and SSI/SSDI to rural, frontier and tribal communities across the country. Previously, she worked for nearly 20 years in a disability rights community based organization, the Association for Community Advocacy (ACA), a local Arc in Ann Arbor, Michigan. She served as both Vice President of ACA, and Director of its Family Resource Center. It was at ACA that Ms. Katz began her nearly 30 years of individual and systems advocacy regarding programs administered by SSA, especially the SSI and SSDI programs. Ms. Katz has written numerous articles and created many widely distributed user-friendly general handouts on SSI and SSDI, the majority of which focus on the impact of work on benefits, and utilizing work incentives. She is the author of *Don't Look for Logic; An Advocate's Manual for Negotiating the SSI and SSDI Programs*, published by the Rural Institute. Her Bachelor's and Master's Degrees are from the University of Michigan. Ms. Katz's many years of experience as a trainer, technical advisor, and advocate have been guided and informed by her partnership with people with disabilities, from her husband, Bob Liston, to the people she assisted in her work with ACA and the Arc Michigan, her current work at the Rural Institute, and her longstanding participation in ADAPT, the nation's largest cross-disability, grassroots disability rights organization. Term of office: November 2006 to September 2012.

Jagadeesh Gokhale

Jagadeesh Gokhale is a senior fellow at the Cato Institute. He earlier worked at the American Enterprise Institute as a visiting scholar (2003), the U.S. Treasury Department as a consultant (2002), and the Federal Reserve Bank of Cleveland as a senior economic advisor (1990-2003). An economist by training, his main research fields are macro and public economics with a special focus on the effects of fiscal policy on future generations. During 2008, he served as a member of the Task Force on Sustainability Issues for the Federal Accounting Standards Advisory Board. Dr. Gokhale has written extensively on policy issues including Social Security and Medicare reform, national saving, private insurance, financial planning, wealth inequality, generational accounting, and public intergenerational transfers and he has testified several times before Congress on these topics. He has published several papers in such top-tier journals as the *American Economic Review*, *Journal of Economic Perspectives*, *Quarterly Journal of Economics*, *Review of Economics and Statistics*; in publications of the National Bureau of Economic Research and the Cleveland Federal Reserve; in the US Budget report's *Analytical Perspectives*; and in popular newspapers and online media such as the *Wall Street Journal*, *The Financial Times*, *The Washington Post*, *American Spectator*, and *Forbes*. Dr. Gokhale is a co-author of *Fiscal and Generational Imbalances* that revealed the U.S. fiscal imbalance to be in the tens of trillions of dollars. Another book by him entitled *Social Security: A Fresh Look at Policy Alternatives* is forthcoming from the University of Chicago Press in 2010. Term of Office: November 2009 to September 2015.

Dorcas R. Hardy

Dorcas R. Hardy is President of DRHardy & Associates, a government relations and public policy firm serving a diverse portfolio of clients. After her appointment by President Ronald Reagan as Assistant Secretary of Human Development Services, Ms. Hardy was appointed Commissioner of Social Security (1986 to 1989) and was appointed by President George W. Bush to chair the Policy Committee for the 2005 White House Conference on Aging. Ms. Hardy has launched and hosted her own primetime, weekly television program, "Financing Your Future," on Financial News Network and UPI Broadcasting, and "The Senior American," an NET political program for older Americans. She speaks and writes widely about domestic and international retirement financing issues and entitlement program reforms and is the co-author of *Social Insecurity: The Crisis in America's Social Security System* and *How to Plan Now for Your Own Financial Survival*, Random House, 1992. A former CEO of a rehabilitation technology firm, Ms. Hardy promotes redesign and modernization of the Social Security, Medicare, and disability insurance systems. Additionally, she has chaired a Task Force to rebuild vocational rehabilitation services for disabled veterans for the Department of Veterans Affairs. She received her B.A. from Connecticut College, her M.B.A. from Pepperdine University, and completed the

Executive Program in Health Policy and Financial Management at Harvard University. Ms. Hardy is a Certified Senior Advisor and serves on the Board of Directors of Wright Investors Service Managed Funds, and chairs the National Advisory Board of Early Bird Alert, a communications technology firm, as well as serving on Boards of several non-profit organizations. First two terms of office: April 2002 to September 2010. Current term of office: October 2010 to September 2016.

Mark J. Warshawsky

Mark J. Warshawsky is Director of Retirement Research at Towers Watson, a global human capital consulting firm. He conducts and oversees research on employer-sponsored retirement programs and policies. A frequent speaker to business and professional groups, Dr. Warshawsky is a recognized thought leader on pensions, social security, insurance and healthcare financing. He has written numerous articles published in leading professional journals, books and working papers, and has testified before Congress on pensions, annuities and other economic issues. A member of the Social Security Advisory Board for a term through 2012, he is also on the Advisory Board of the Pension Research Council of the Wharton School. From 2004 to 2006, Dr. Warshawsky served as assistant secretary for economic policy at the U.S. Treasury Department. During his tenure, he played a key role in the development of the Administration's pension reform proposals, particularly pertaining to single-employer defined benefit plans, which were ultimately included in the Pension Protection Act ("PPA") of 2006. He was also involved extensively in the formulation of Social Security reform proposals, and oversaw the Department's comprehensive 2005 study of the terror risk insurance program. In addition, Dr. Warshawsky led the efforts to update and enhance substantially the measures and disclosures in the Social Security and Medicare Trustees' Reports, as well as the setting of the macroeconomic forecasts, which underlie the administration's budget submissions to Congress. Dr. Warshawsky's research has been influential in the 2001-2002 regulatory reform of minimum distribution requirements for qualified retirement plans, the increasing realization of the importance of financial protection against outliving one's financial resources in retirement, and a product innovation to integrate the immediate life annuity and long-term care insurance. For the latter research, he won a prize from the British Institute of Actuaries in 2001 for a professional article he co-authored. Favorable tax treatment for this integrated product was also included in PPA due to Dr. Warshawsky's advocacy. Dr. Warshawsky has also held senior-level economic research positions at the Internal Revenue Service, the Federal Reserve Board in Washington, D.C. and TIAA-CREF, where he established the Paul A. Samuelson Prize and organized several research conferences. A native of Chicago, he received a Ph.D. in Economics from Harvard University and a B.A. with Highest Distinction from Northwestern University. Term of office: December 2006 to September 2012.

Social Security Advisory Board Staff Members*

Deborah Sullivan, Acting Staff Director

Deborah (Debi) Sullivan joined the Social Security Advisory Board staff in September 2007 as the Deputy Staff Director. Before joining the Board staff, she was a participant in the Social Security Administration's (SSA's) Senior Executive Service Candidate Program and did extensive work on the agency's most recent disability service improvement initiatives. Ms. Sullivan began working for SSA as a claims representative in Columbus, Indiana in 1978 and has held increasingly more responsible supervisory and managerial positions throughout her career. She worked in a number of SSA field offices and the Regional Offices in both Chicago and Atlanta. In 2002, she relocated to SSA's headquarters in Baltimore to become the Executive Officer of SSA's strategic planning component, which was responsible for the publication of the agency's annual planning documents and periodic strategic plans. During her tenure at the Social Security Administration, Ms. Sullivan was the recipient of many awards including five Commissioner's Citations and a National Performance Award. She holds a Bachelor's Degree in History and Political Science from Ball State University and has completed additional graduate work at Emory University in Atlanta.

Jacqueline Chapin, Professional Staff

Jackie Chapin joined the Advisory Board in September 2011 as a staff policy analyst. She began her career with the Federal Government in 2004 as a Presidential Management Fellow with the Social Security Administration's Office of Disability Policy in Baltimore, Maryland. She transferred to field office operations in the San Francisco region in 2005 and worked in field office management, specializing in Supplemental Security Income. During her time in the field, Dr. Chapin spent a year detailed to Baltimore working on disability policy. Prior to working for the Federal government, she taught Sociology at colleges and universities in both Portland, Oregon and Riverside, California. Dr. Chapin worked as a registered nurse prior to studying sociology. She earned her Bachelor's Degree in Sociology at Cal State Los Angeles, and both her Master's and Doctoral Degrees in Sociology at the University of California at Riverside. While working for SSA, Dr. Chapin earned several agency awards including an Associate Commissioner's Citation and a Commissioner's Team Award for her work in disability policy.

Jeremy Elder, Research Assistant

Jeremy Elder joined the Advisory Board staff as a research assistant in August 2011, after interning with the Board that summer. Prior to joining the Advisory Board, he interned at a Maryland State advocacy group. During his time there he researched and drafted legislative testimony on social policy issues including welfare policy, housing, education, and health care policy. He holds a Bachelor's Degree in Political Science with a minor in Philosophy from Mount Saint Mary's University in Emmitsburg, Maryland.

Joel A. Feinleib, Staff Economist

Joel Feinleib joined the Advisory Board as Staff Economist in 2005 focusing on long-term financing issues, reform proposals, and empirical research. He previously worked as a research consultant and policy analyst in Washington D.C. and Chicago specializing in the economic, demographic and statistical analysis of social policy issues including welfare policy, drug control policy, environmental health, and HIV/AIDS prevention. He holds a B.S. in Economics from the University of Pennsylvania and a Masters in Public Policy Studies from the University of Chicago.

Beverly Rollins Sheingorn, Executive Officer

Beverly Rollins Sheingorn began her career with the Federal government as a claims representative for the Social Security Administration in the Rockville, Maryland field office. She held a number of jobs with SSA, including senior executive analyst for both the Associate Commissioner of Hearings and Appeals and the Deputy Commissioner for Programs. In 1995, she worked with the National Commission on Childhood Disability, serving as an executive assistant to the Staff Director. Prior to working for the federal government, Ms. Rollins Sheingorn worked as a social worker for the Head Start program and the West Virginia Department of Welfare. Since joining the Board staff in 1996, she has served as Executive Officer. She holds a Bachelor's degree in

Social Work from West Virginia University and a Master's degree in General Administration from the University of Maryland.

Roberta (Robin) Walker, Staff Assistant

Robin Walker joined the Advisory Board staff in December 2009 after spending many years as an Executive Assistant in the private sector. Most recently she supported the work of the President and Vice President of a D.C. construction firm. Ms. Walker has years of experience in managing all aspects of a corporate office.

David Warner, Professional Staff

David Warner began his career with the Federal government in 1988 as a budget and program analyst for the Office of the Secretary of the Department of Health and Human Services in Washington, D.C. He worked principally on the administrative budget for the Medicare program and the program and administrative budgets for Medicaid and the Social Security Administration. Mr. Warner transferred to the Social Security Administration in 1995. Until 1998, he served as a senior social insurance specialist and executive officer for the Deputy Commissioner for Legislation and Congressional Affairs. In 1998, Mr. Warner completed a developmental assignment as professional staff to the Social Security Subcommittee of the House Committee on Ways and Means. Since joining the staff of the Social Security Advisory Board in 1999, he has served as professional staff to the Board. He holds a Bachelor's degree in psychology from the University of Wisconsin and a Master's degree in public sector and non-profit financial management from the University of Maryland.

**The Board would like to acknowledge and thank former Staff Director, Katherine Thornton, and former Professional Staff member, George Schuette, for their input and the many hours they spent working on this document.*

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