Ms. Carolyn Colvin  
Acting Commissioner Social Security Administration  
440 Altmeyer Building  
6401 Security Blvd.  
Baltimore, MD 21235-0001  

Dear Ms. Colvin:

Ten months ago, I wrote to you seeking an explanation for the low allowance rate at the Anchorage Office of Disability Adjudication and Review (ODAR). According to a July 2010 Congressional Response Report, the allowance rate was approximately 18 percent. That same source shows an allowance rate of 14 percent for FY 2014. The next lowest state is Kansas with an allowance rate of 32 percent and the National average allowance rate is 44 percent, according to another Congressional Response Report dated February 2012. Also of concern is the dismissal rate which according to a January 2013 Inspector General Audit has climbed from 29 percent last year to 32 percent for FY2014, significantly higher than the National average of 19 percent.

As I noted last year, the significantly disparate hearing approval rate in Alaska warrants an explanation, as otherwise qualified Alaskans with disabilities are likely being denied the benefits to which they are legally entitled. I requested your office provide me with a full accounting on the numbers and reasons Alaska had one of the lowest allowance ratings in the country.

Your response in June of 2013 was neither a full accounting of the numbers nor did it provide empirical justification for the low allowance rate. You cited several factors, including the local job market, access to health care, the age and educational attainment of the applicants, and access to accommodations in the local area. These factors do not shift precipitously over a few years, certainly not enough to explain a drop in the allowance rate from 60 percent in FY2010 to 14 percent in FY 2014.1 You also cited a low sample of only 245 cases. That sample size is now 905 cases from FY 2013 and FY2014 and not only has the allowance rate has failed to stabilize, but it has continued to drop.2

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2 Memorandum from Amber G. Williams, Staff Counsel with the Administrative Conference of the United States to the Committee on Adjudication on Draft Recommendations (April 1, 2013)
I have been made aware of multiple reports that have examined decisional disparities between ODAR’s Administrative Law Judges. Several of these reports discuss “outlier” judges—judges who have decisional records that deviate significantly from the mean. In addressing these ‘outlier’ judges, one report noted that “[t]he distance from the mean strongly suggests that such judges’ decisions are not due to case mix or chance, but, rather, some other factor(s) such as lack of policy compliance (whether for reasons of ideology, misapplication of regulations, or cutting corners).”

That report identified “outliers” as judges with allowance rates below 23 percent. The Anchorage ODAR has an allowance rate of 14 percent and one of the two judges in that office has an allowance rate of 8 percent. According to one Office of Inspector General’s report, “greater Agency attention is needed to ensure outliers in ALJ performance, be it high or low, are monitored and the underlying work processes are periodically reviewed.”

The Office of Inspector General has already concluded that “SSA also has the authority to conduct post-effectuation reviews of specific ALJ decisions based on anomalies, such as unusually high percentages of allowance or denial decisions.” With this in mind, I continue to ask only for what SSA’s Office of Inspector General has determined is necessary – monitoring of outlier judges to ascertain whether their decisions comply with agency policy.

I once again look forward to your quick response. Alaskans are counting on me to expedite this. Thank you.

Sincerely,

Mark Begich
United States Senator

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