



Social Security Disability Denials

A report by the Athens County Department of Job & Family Services

August 2007

If you were to become permanently disabled today, what would happen to your financial future? Would you be able to support the cost of your medical bills? Would you be able to provide for your family? Many people read or hear about people receiving disability benefits, but assume that it will not happen to them. But studies show that approximately 3 out of 10 workers who are currently 20 years of age will become disabled before reaching retirement.¹

The Social Security Administration (SSA) has two social service programs in place to assist those who are disabled: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI). These programs provide the disabled with financial assistance while they are unable to work. However, those depending on these programs to provide immediate assistance often find themselves caught in a lengthy application and appeals process.

The majority of applicants for disability benefits from the SSA are initially denied, while more than half of those who appeal their cases eventually win. However, the average appeals process takes about 1.5 years and can have adverse effects on the applicant including hunger, home foreclosure, deteriorating health or even death. This situation leaves two large, unanswered questions that must be addressed: If more than half of the applicants who appeal win, why is the initial denial rate so high? In comparison, why do state-operated disability services that also offer benefits to disabled workers (such as County Medical Services and Bureau of Worker's Compensation) have a much higher initial approval rate?

Social Security Disability Insurance (SSDI)

Social Security is an employee contribution system that is administered by the SSA and makes payments to individuals. As people work and pay Social Security taxes, they earn "credits" that count toward their eligibility for benefits. Depending on earnings, they can earn up to four credits each year. The number of credits needed to qualify for disability benefits depends on the age of the person when he or she becomes disabled.

Eligibility for Social Security disability programs in Ohio is determined by the Bureau of Disability Determination (BDD), a division of the Ohio Rehabilitation Services Commission (ORSC).² That includes both SSDI and SSI. Though it is a part of the ORSC (and thus the state of Ohio), the BDD is, "federally regulated and receives 100% of its funding from the Social Security Administration."³ In FY 2005, the BDD processed 183,779 claims in Ohio.⁴ After eligibility is determined, SSA implements services.

¹ Social Security Administration, Disability Planner, Social Security Protection if You Become Disabled

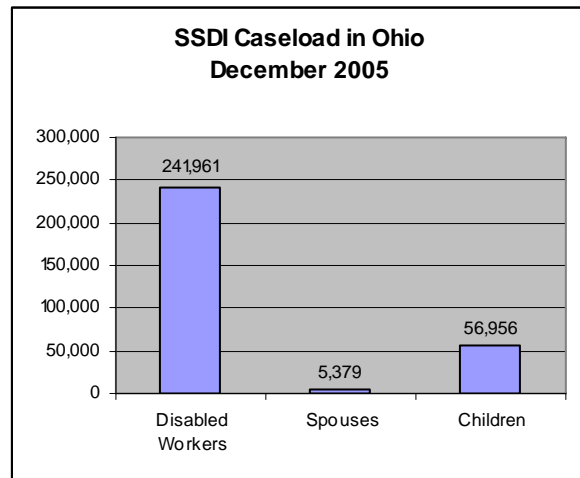
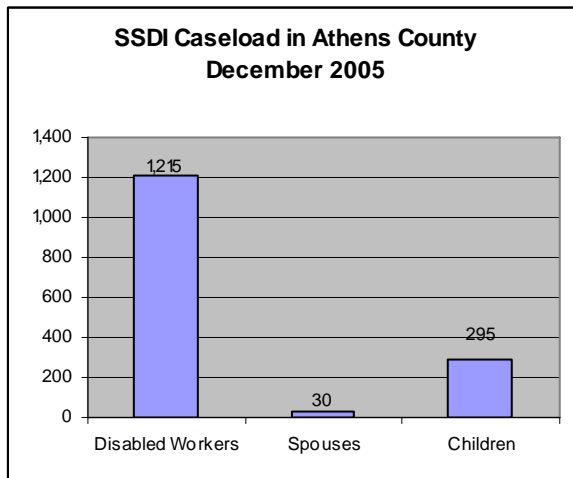
² The Ohio Rehabilitation Services Commission, Bureau of Disability Determination

³ Ibid

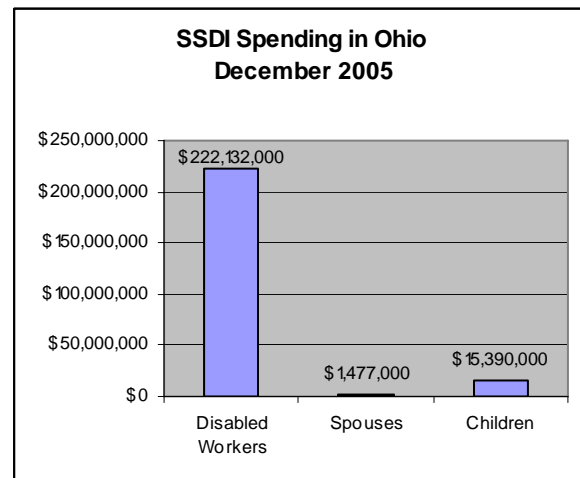
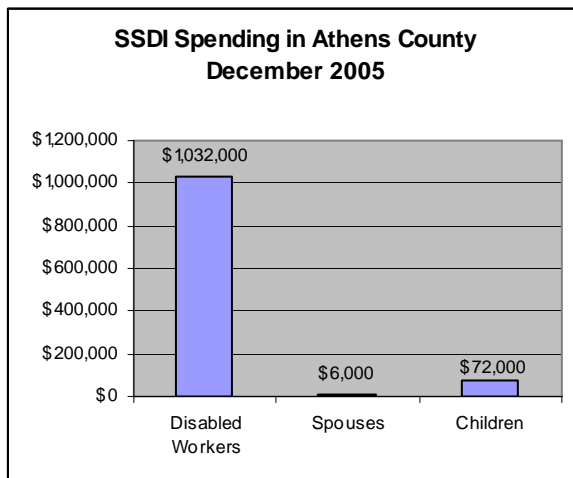
⁴ Ibid

There are many Athens County residents receiving SSDI – 1,540 as of December 2005, 1,215 of those cases were disabled workers.⁵ The other 325 recipients were spouses and children who qualified to receive survivor benefits. During the same month, there were more than \$1 million in disability payments being disbursed to recipients in the county, with the bulk of that going to disabled workers.⁶

The following charts illustrate both the SSDI caseload and the total SSDI spending for recipients in the county and for all of Ohio during December of 2005; broken down by type of recipient.



Source: Social Security Administration, OASDI Beneficiaries by State and County, 2005, Table 4, Athens County

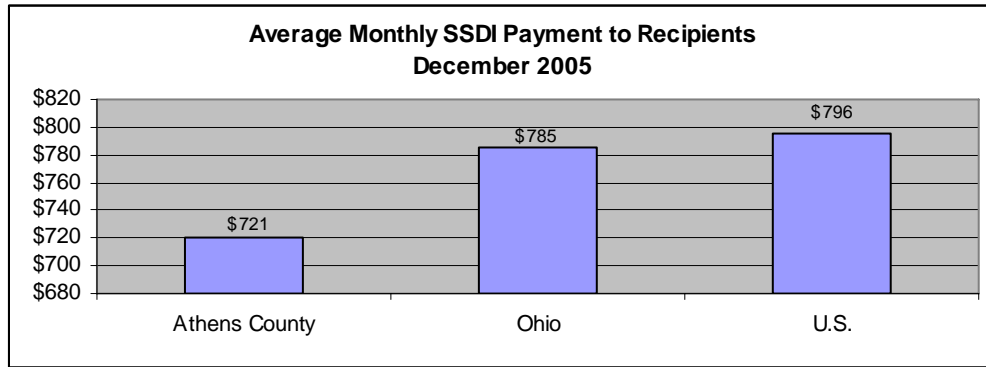


Source: Social Security Administration, OASDI Beneficiaries by State and County, 2005, Table 5, Athens County

⁵ Social Security Administration, OASDI Beneficiaries by State and County, 2005, Table 4

⁶ Social Security Administration, OASDI Beneficiaries by State and County, 2005, Table 5

As of December 2005, the total average monthly SSDI payment to recipients in Ohio was \$785, while in Athens County it was \$721. (These totals were calculated by dividing the expenditure amounts by the caseload amounts from tables 4 and 5 in the OASDI Beneficiaries by State and County, 2005 report).⁷ The average Athens County SSDI recipient received \$75 less per month than the average national rate of \$796 per month. See the chart below.

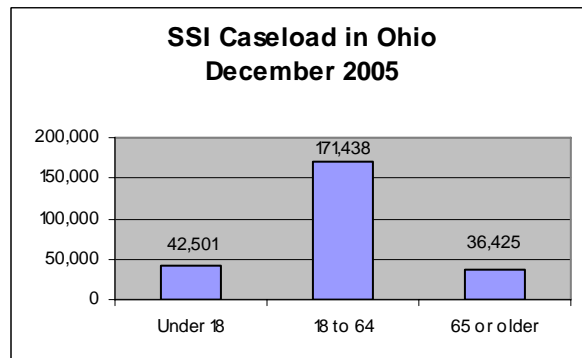
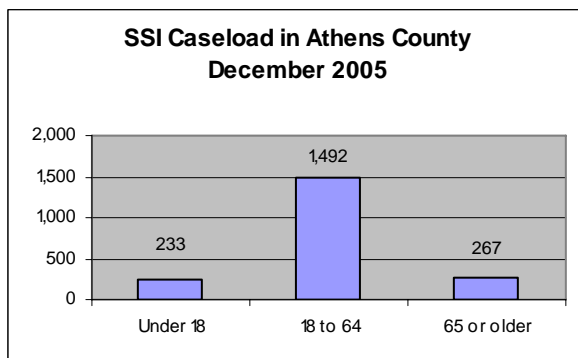


Source: Social Security Administration, OASDI by State and County, 2005, Tables 2,3,4,5, Ohio, Athens County, U.S.

Supplemental Security Income (SSI)

Social Security Income (SSI) is a federal income supplement program funded by general tax revenues rather than Social Security taxes.⁸ SSI is an anti-poverty plan designed to help aged, blind, and disabled people who have little or no income or employment history. It provides cash to meet basic needs for food, clothing, and shelter.⁹ SSI provides assistance based on financial need and disability whereas SSDI provides assistance based on credits earned and disability.

The following charts illustrate the SSI caseload in Ohio and Athens County during December 2005.



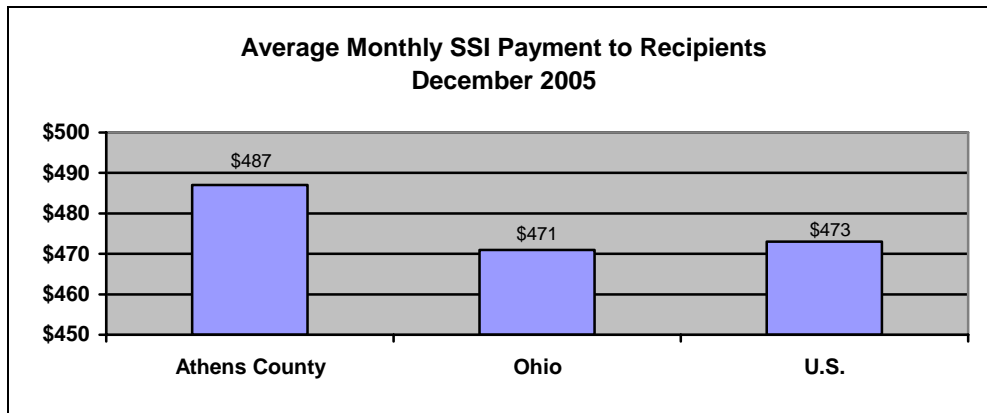
Source: Social Security Administration, SSI Recipients by State and County, Ohio, Athens County, 2005

⁷ Social Security Administration, OASDI Beneficiaries by State and County, 2005, Tables 4 and 5

⁸ Social Security Administration, Understanding Supplemental Security Income

⁹ Social Security Administration, Supplemental Security Income Overview

In Athens County during December 2005, Social Security disbursed \$971,000 in SSI payments, with an average payment of \$487 per recipient.¹⁰ This number is higher than the average payment for the state and the U.S. See the chart below.



Source: Social Security Administration, SSI Recipients by State and County, Ohio, Athens County, 2005

The following charts compare the average monthly SSDI and SSI payments to the federal poverty level for Ohio and the U.S.

Average Monthly SSI and SSDI Payments in Ohio

	SSI Max. Monthly Payment	SSI Avg. Monthly Payment	SSDI Avg. Monthly Payment	FPL Monthly	SSI Avg. % FPL	SSDI Avg. % FPL
2000	\$513.00	\$377.49	\$788.60	\$696.00	54.24%	113.30%
2001	\$531.00	\$392.06	\$810.80	\$716.00	54.76%	113.24%
2002	\$545.00	\$401.15	\$824.00	\$738.00	54.36%	111.65%
2003	\$552.00	\$406.55	\$848.70	\$748.00	54.35%	113.46%
2004	\$564.00	\$417.16	\$875.80	\$776.00	53.76%	112.86%
2005	\$579.00	\$429.73	\$914.20	\$798.00	53.85%	114.56%

Source: Department of Health & Human Services, Poverty Guidelines. Social Security Administration Annual Statistical Supplement 2000 to 2006.

Average Monthly SSI and SSDI Payments in U.S.

	SSI Max. Monthly Payment	SSI Avg. Monthly Payment	SSDI Avg. Monthly Payment	FPL Monthly	SSI Avg. % FPL	SSDI Avg. % FPL
2000	\$513.00	\$378.82	\$787.00	\$696.00	54.43%	113.07%
2001	\$531.00	\$393.96	\$814.80	\$716.00	55.02%	113.80%
2002	\$545.00	\$407.42	\$834.10	\$738.00	55.21%	113.02%
2003	\$552.00	\$417.16	\$861.70	\$748.00	55.77%	115.20%
2004	\$564.00	\$428.29	\$894.10	\$776.00	55.19%	115.22%
2005	\$579.00	\$439.09	\$937.90	\$798.00	55.02%	117.53%

Source: Department of Health & Human Services, Poverty Guidelines. Social Security Administration Annual Statistical Supplement 2000 to 2006.

¹⁰ Social Security Administration, SSI Recipients by State and County, Ohio, Athens County, 2005

Disability Denials

During Fiscal Year (FY) 2006, 163,659 people applied for disability benefits through Social Security (SSDI) in the state of Ohio.¹¹ Of those people, 73.4 percent had their claims initially denied.¹² That means that Ohio has an initial approval rate of about 27 percent, which was lower than all but four other states (Colorado, Georgia, Mississippi, and Tennessee), with the national average at about 36 percent.¹³ At the reconsideration stage (which immediately follows the initial application for those who decide to appeal), only about another 11 percent are approved in Ohio, which leaves 62 percent either flatly denied or headed for the hearing process.¹⁴

Why Are Social Security Claims Denied?

SSDI applications are denied for either medical or technical reasons. A “technical denial” is the term describing an application which is “denied for non-medical reasons before a medical decision is made.”¹⁵ Another form of non-medical denial is the “subsequent denial” which includes “applications for which a medical allowance or denial decision was made but which were subsequently denied for non-medical reasons.”¹⁶ The most frequent reason used for non-medical denials is insufficient number of recent work credits.¹⁷

The majority of disability denials deal with medical issues. When a person is denied for medical reasons, they are given one of the following five reasons:¹⁸

1. Impairment did not or is not expected to last 12 months;
2. Impairment is not severe;
3. Able to do usual past work;
4. Able to do other type of work; and
5. Other, defined as: “Applicant has an impairment resulting from drug addiction or alcoholism, provided insufficient medical evidence, failed to cooperate, failed to follow prescribed treatment, did not want to continue development of the claim, or returned to substantial work before disability could be established. Also includes cases denied at or above the hearing level for which the basis of determination is not available.”¹⁹

Of these medical reasons for denial, “able to do other type of work” is the most common.

¹¹ Social Security Administration, 1/12/07 E-mail Correspondence with Mirian Wagner, Visual Information Specialist

¹² Ibid

¹³ The Cleveland Plain Dealer, 2/15/07, *Disability Applicants Endure Long Wait in Ohio*, Diane Suchetka

¹⁴ Ibid

¹⁵ Social Security Administration, Annual Statistical Report on the Social Security Disability Insurance Program, 2005

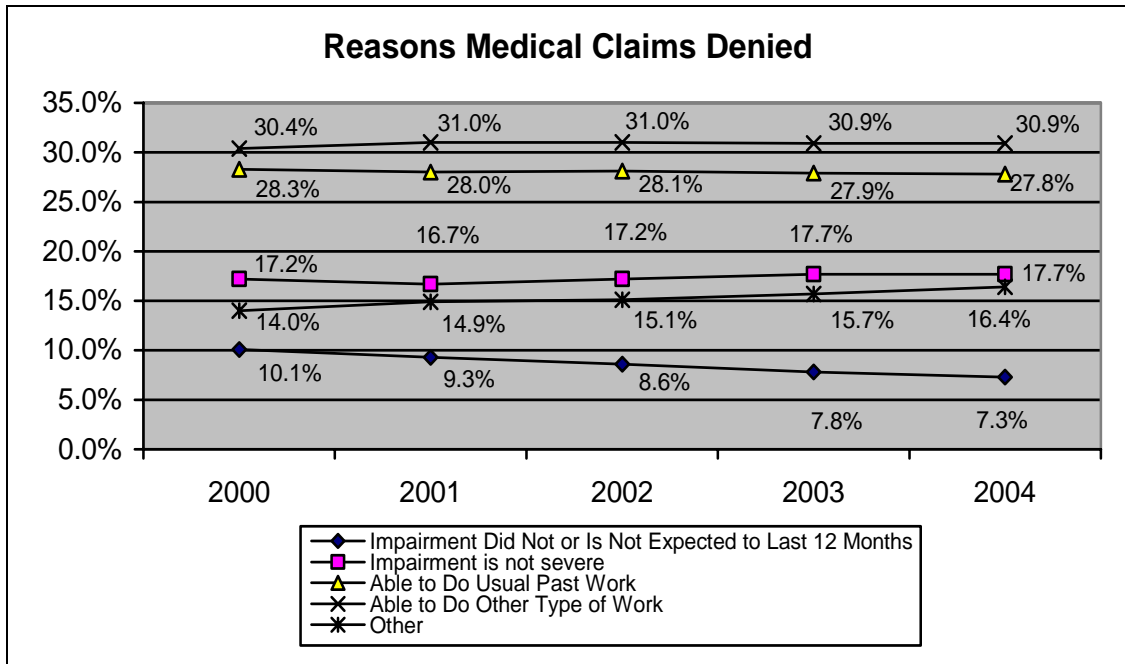
¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

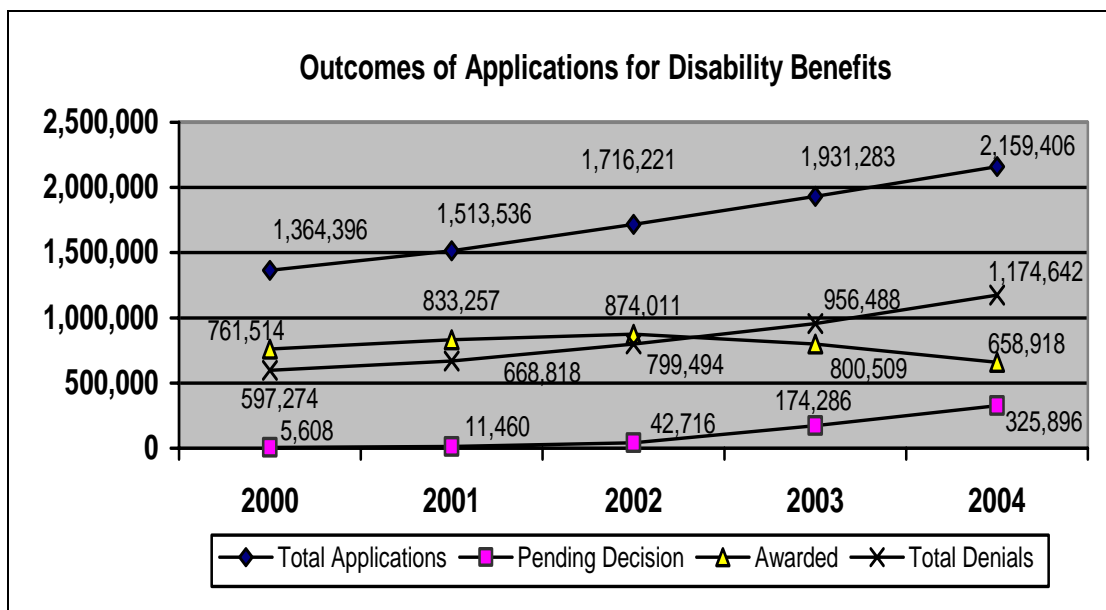
The following chart illustrates the frequency with which these reasons are used for all applications.



Source: Social Security Administration, Annual Statistical Report on the Social Security Insurance Program, 2005, Table 63

Trends

From 2000 to 2004, there was a sharp increase in the amount of applications for disability. In line with that increase, denials and pending decisions also rose. Benefits awarded, however, declined over the period both in number and proportion. In 2000, there were more people awarded disability benefits than those denied.²⁰ By 2004, there were nearly twice as many applications denied as those awarded.²¹ This could again be due to the rising number of outstanding cases. It should be noted that all data dealing with outcomes of disability claim applications are national. Therefore, these statistics do not reflect statewide or regional differences (i.e., the rate of denials may be higher or lower in Athens County or Ohio than the national average, but those numbers are not kept).²² The results are illustrated below.



Source: Social Security Administration, Annual Statistical Report on the Social Security Program, 2005, Outcomes of Applications for Disability Benefits, Table 58

Appeals Process

When an applicant is denied an initial disability claim, (s)he has 60 days to appeal that decision.²³ The applicant then enters reconsideration determination.²⁴ According to the SSA, during reconsideration determination, “[the applicant] will receive a new decision by someone who had no part in the first decision” accompanied by a letter explaining their decision.²⁵

If the applicant still disagrees with this opinion, then the applicant has the right to a hearing before an Administrative Law Judge (ALJ).²⁶ Most applicants wait more than a year for

²⁰ Social Security Administration, Annual Statistical Report on the Social Security Program, 2005, Outcomes of Applications for Disability Benefits, Table 58

²¹ Ibid

²² 2/27/07 E-mail Correspondence with Marian Wagner, Social Security Administration

²³ Social Security Administration, Hearings and Appeals, Social Security’s Appeals Council Review Process

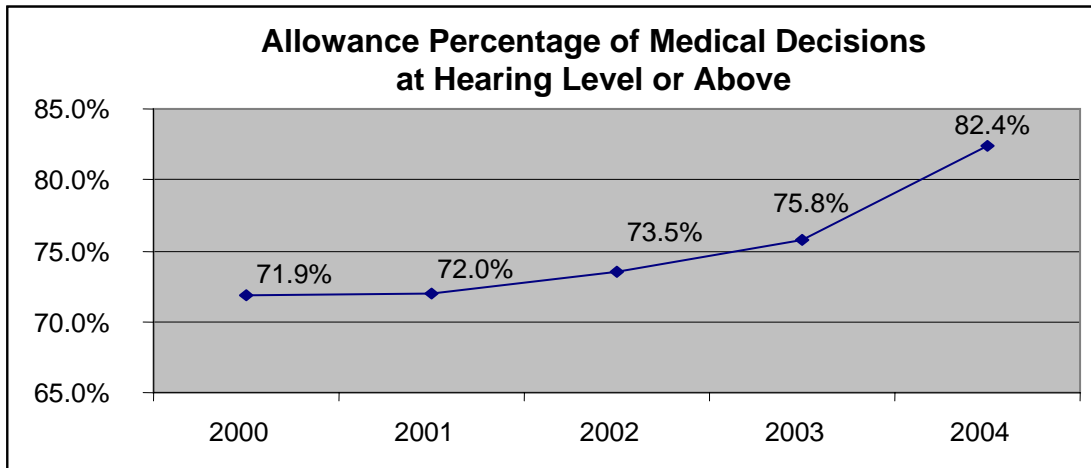
²⁴ Social Security Administration, Hearings and Appeals, Social Security’s Hearing Process

²⁵ Ibid

²⁶ Ibid

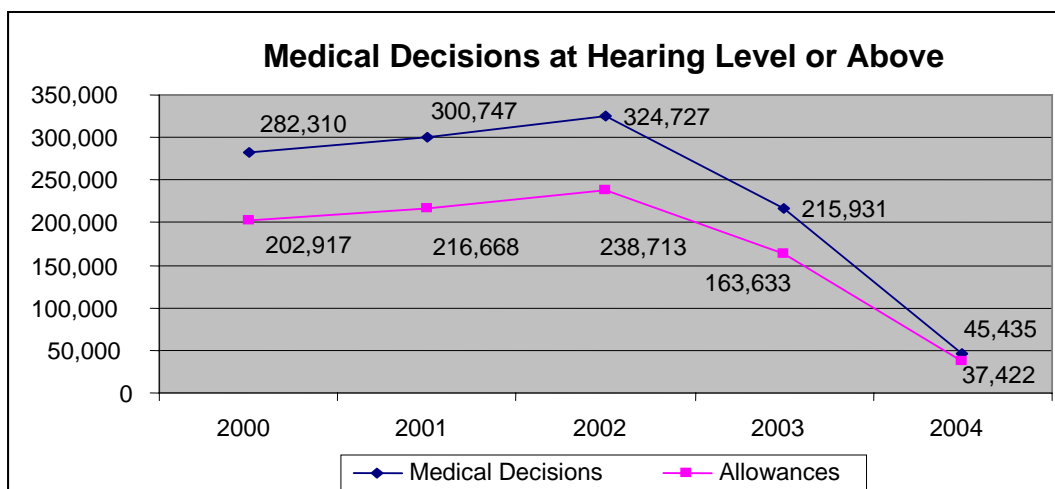
their scheduled hearing. Following the ALJ Hearing, if the applicant disagrees with the verdict, then the applicant can file a request for review with the Appeals Council.²⁷ If the applicant is still not satisfied with the decision rendered, the final path of recourse is in federal appeals court.²⁸

Medical cases that make it to the appellate level are, for the most part, approved.²⁹ Recently, there has been a gradual increase in the percentage of approved medical cases at the hearing level of the appeals process, as indicated in the following chart.



Source: Social Security Administration, Annual Statistical Report on the Social Security Disability Insurance Program, 2005, Outcomes of Applications for Disability Benefits, Table 61

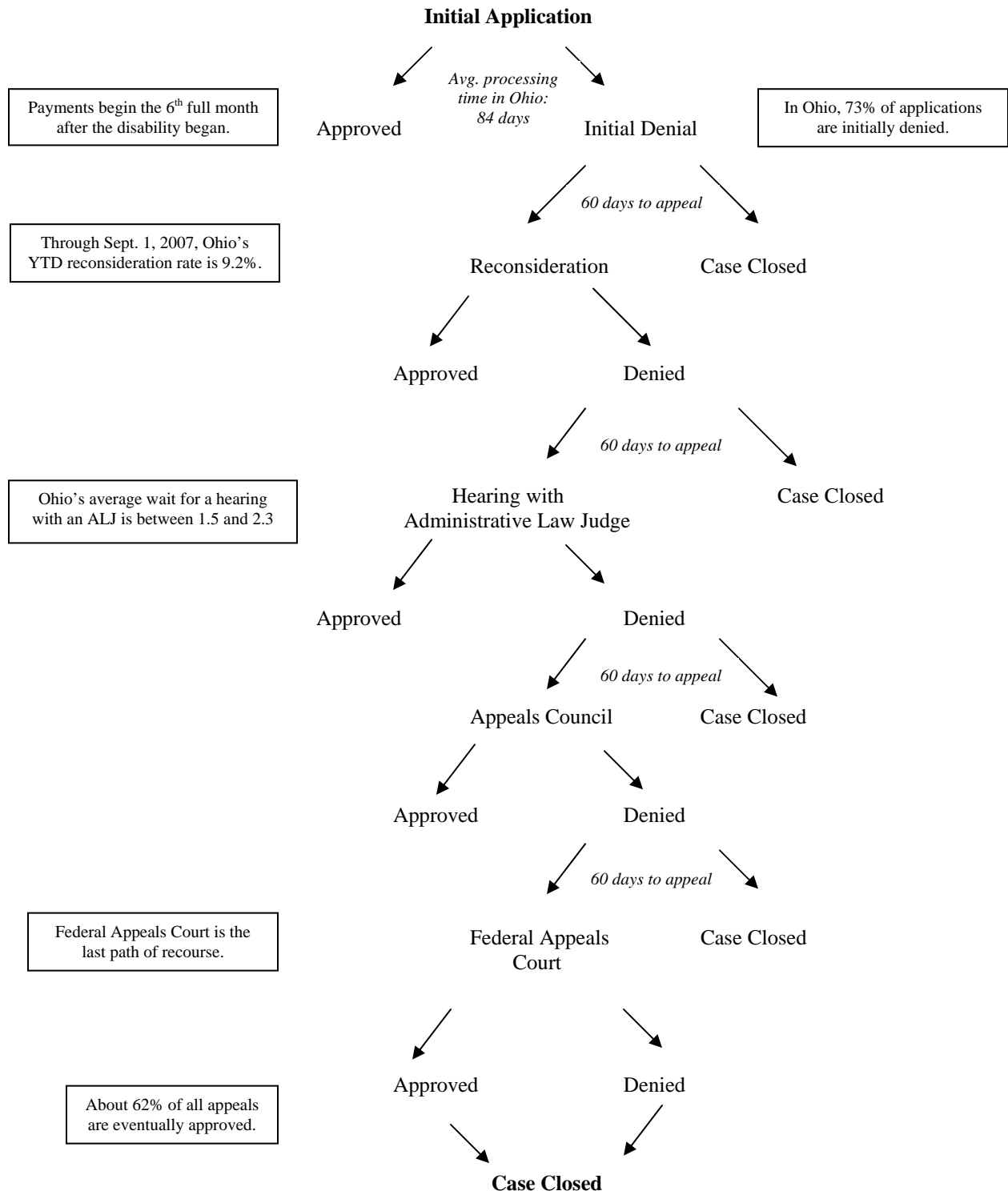
Because of the ongoing backlog issue, not all of the cases from 2003 and 2004 have been decided. Thus, the approval rate for those two years may be lower than graph indicates. The following graph breaks approval down by total cases approved rather than by percentage, and it shows that the current approval rate means little because of the low number of cases decided thus far.



Source: Social Security Administration, Annual Statistical Report on the Social Security Disability Insurance Program, 2005, Outcomes of Applications for Disability Benefits, Table 61

²⁷ Ibid
²⁸ Ibid
²⁹ Ibid

Social Security Disability Appeals Process



Payments begin the 6th full month after the disability began.

In Ohio, 73% of applications are initially denied.

Through Sept. 1, 2007, Ohio's YTD reconsideration rate is 9.2%.

Ohio's average wait for a hearing with an ALJ is between 1.5 and 2.3

Federal Appeals Court is the last path of recourse.

About 62% of all appeals are eventually approved.

The Backlog Problem

The ever-growing backlog of disability appellate cases within SSA is becoming a major issue both locally and nationally. There are four SSA hearing offices in the state of Ohio.³⁰ They are located in Cincinnati, Columbus, Cleveland, and Dayton.³¹ The Dayton office serves the Athens County area. There is, however, a traveling Administrative Law Judge (ALJ), who will meet with applicants in a Marietta area hotel in rare circumstances.³² All hearing case load statistics in this report will use Cleveland statistics as the Dayton office data was “not readily available.”³³

At the Cleveland SSA office alone, there are currently 12,600 people awaiting a hearing with an ALJ.³⁴ Of the 140 hearing offices located around the U.S., only six have longer such backlogs, including the Columbus office, and only 20 have a longer average wait than Cleveland’s 19.2 months.³⁵ This is a major problem because at the Cleveland office, about 60 percent of all the appellate cases that actually make it to hearing or above are eventually approved.³⁶ Nationally, 58 percent of such cases are approved.³⁷

According to the SSA, the number of backlogged cases has doubled in the last six years and could reach 1 million by 2010.³⁸ Social Security Commissioner Michael Asture is finding it difficult to reduce waits because of financial and demographic trends. The SSA received \$1 billion less in funding during the past six years, “leaving the agency with its lowest staffing level since the early 1970s.”³⁹ In addition, “the number of people collecting disability benefits, 15.3 million, has risen by about 24 percent in the past five years,” likely due to the aging baby boomer generation.⁴⁰

The Effects of the Backlog

The average wait for a hearing with the ALJ in Cleveland is 555 days,⁴¹ 735 days at the Dayton office and 841 days at the Columbus office.⁴² Ohio is one of the slowest states in processing appeals cases.

What does this mean for a disabled worker in Ohio? In order for a person to qualify for disability benefits, something must be preventing the applicant from working. Thus, when they are initially denied and appeal that decision, they will be out of work anywhere from one and a half to two and a half years with no steady income. Many can apply for public assistance while struggling to meet basic needs; however, this means living well below the poverty level.

³⁰ Social Security Administration, Hearing Office Locator, Chicago Region 5

³¹ Ibid

³² Ibid

³³ 4/11/07 Email Correspondence with Marian Wagner, Social Security Administration

³⁴ The Cleveland Plain Dealer, 2/15/07, *Disability Applicants Endure Long Wait in Ohio*, Diane Suchetka

³⁵ Ibid

³⁶ Ibid

³⁷ Social Security Administration, Annual Statistical Report on the Social Security Disability Insurance Program, 2005, Outcomes of Applications for Disability Benefits, Table 61

³⁸ USA Today, 7/31/2007, *Disabled Worker Cases at Record*, Richard Wolf

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Subcommittee on Social Security, Committee on Ways and Means, Subcommittee on Social Security Chairmen McNulty Announces a Hearing on Social Security Disability Backlogs

⁴² USA Today, 7/29/07, *Disability Delays Can Lead to Personal Havoc*, Richard Wolf

Many hardships are placed on a family awaiting a hearing. During this time, because they are not working, applicants may suffer a variety of unpleasant consequences. They may lose their homes, their cars, their health insurance, and may even die while waiting for medical treatment they cannot afford.⁴³

Bureau of Workers' Compensation (BWC)

The Bureau of Workers' Compensation (BWC) is another agency that provides services for disabled workers. It provides a compensation system that helps "employers and employees cope with workplace injuries by providing medical and compensation benefits for work-related injuries, diseases, and deaths."⁴⁴ BWC is provided to workers who were hurt or disabled at the fault of their employer. In FY 2006, "BWC provided workers' compensation coverage to more than 288,000 employers, processed more than 188,000 new claims and paid out more than \$1.9 billion in benefits."⁴⁵ During FY 2006, 185,232 Ohioans applied for BWC workers' compensation benefits, and 167,053 of those applications were approved, which represents an approval rate of 90 percent, as compared with SSA, which as state before, is only about 27 percent.⁴⁶

County Medical Services (CMS)

In Ohio, there is medical help available to some disabled clients who are waiting for Social Security disability benefits: County Medical Services (CMS). CMS is administered by each county's Department of Job & Family Services. While applicants are waiting for Social Security benefits, CMS provides limited Medicaid benefits to them that include: doctor visits, prescriptions, laboratory tests, dental services, and durable medical equipment, if medically necessary. Applicants seeking CMS also need to apply for SSI or SSDI, if they have not already done so.

The initial allowance rate for CMS is about 75 percent in Athens County. Many of the same people who get denied benefits from Social Security are able to procure benefits through CMS. With eligibility standards largely the same, the discrepancy between the two systems remains a mystery.

⁴³ The Cleveland Plain Dealer, 2/15/07, *Disability Applicants Endure Long Wait in Ohio*, Diane Suchetka

⁴⁴ Ohio Bureau of Workers' Compensation, BWC Profile

⁴⁵ Ibid

⁴⁶ Ohio Bureau of Workers' Compensation, BWC Year End Statistics

BDD and CMS Initial Allowance Rates Compared

CMS and BDD both use very similar standards to rule on the same applicants, yet there is a large discrepancy in how many initially gain services. While the initial allowance rates for Social Security programs is less than one third, about 75 percent of the people who apply for CMS gain approval with their initial application. Again, the standards, process, and cases are all essentially the same, yet the results rarely are.

The discrepancy is particularly relevant because of the difference in average time spent in the process. In Ohio, so far for FY 2007, the average wait time from initial BDD receipt until initial decision for both SSDI and SSI is 83.0 days, or less than 3 months.⁴⁷ With the backlog situation in the appeals process, that means an error in the initial decision process will force a worthy applicant to wait literally more than a year on average, and possibly more to get a final decision.

In order to remedy this situation, open conversation between the two agencies would be logical. The agencies are dealing with the same applicants, they could share information, and CMS workers could assist in filling the gaps in which trivial technical application mistakes cost applicants their initial case.

Why Are So Many Valid Social Security Claims Initially Denied?

Nationally, “of the 2.5 million people who file disability claims each year, about 65 percent are initially denied.”⁴⁸ Of the cases that make it to the reconsideration level, about 11 percent are approved.⁴⁹ Much more than half of the cases in the U.S. that are brought to the hearing level or above that were appealed for medical reasons are approved.⁵⁰ Using the Cleveland office again, about 60 percent of the cases heard by an ALJ are approved.⁵¹ “If you’re having a two-thirds overturn, that really says there’s a mess-up in the initial evaluation,” said Romel W. Mackelprang, Director for the Center for Disability Studies and Universal Access at Eastern Washington University.⁵²

So, if roughly two-thirds of the people appealing are going to win their disability claim eventually, the logical question is: Why are so many deserving applicants denied at the preliminary stages of the application process? Mackelprang explains that SSA workers he has spoken with claim the application process itself is so confusing that filing mistakes cause them to deny worthy applicants.⁵³ Mary B. McKee, a Cleveland area attorney, says that she sees cases in which people’s claims are denied, “even though government-paid doctors have examined them and deemed them disabled.”⁵⁴

⁴⁷ 3/13/07 E-mail Correspondence with Marian Wagner, Social Security Administration

⁴⁸ USA Today, 7/31/2007, *Disabled Worker Cases at Record*, Richard Wolf.

⁴⁹ Ibid

⁵⁰ Social Security Administration, Annual Statistical Report on the Social Security Disability Insurance Program, 2005, Outcomes of Applications for Disability Benefits, Table 61

⁵¹ The Cleveland Plain Dealer, 2/15/07, *Disability Applicants Endure Long Wait in Ohio*, Diane Suchetka

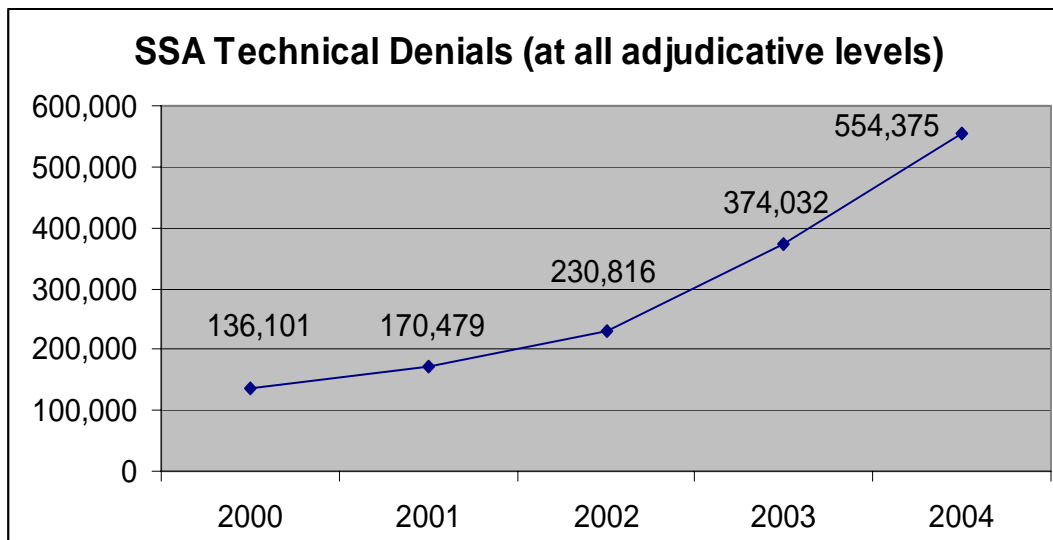
⁵² Ibid

⁵³ Ibid

⁵⁴ Ibid

Placing much of the blame for the high number of initial evaluations on the application system itself seems valid. While medical reasons have always been the leading reason for denial, a closer look at the situation shows that this is beginning to change. Technical denials are largely on the rise and are now nearly as common as medical denials. In fact, in 2004 there were 554,375 technical denials, compared to 611,751 medical denials.⁵⁵

This is likely due to the high demand for disability right now, coupled with the SSA's fiscal crisis. With few staff available to assist with the paperwork, the SSA is denying many deserving applicants for reasons that are not medical. The following chart illustrates the expansion of technical denials at all adjudicative levels. (The adjudicative levels do not include initial or reconsideration level technical denials.)



Source: Social Security Administration, Annual Statistical Report on the Social Security Program, 2005, Outcomes of Applications for Disability Benefits, Table 58

⁵⁵ Social Security Administration, Annual Statistical Report on the Social Security Program, 2005, Outcomes of Applications for Disability Benefits, Table 58

Conclusion

Although 60 percent of all applicants who appeal an initially denied claim are eventually approved for disability benefits, the 1.5 to 2.5 year process can have devastating affects on them and their families. Not only is their financial future in jeopardy, but so is there personal health. Despite their best efforts, they are unable to meet the basic needs of their families.

Waiting more than a year to receive benefits puts an additional strain on already hurting families. The number of backlogged cases is continuing to rise. Unless this issue is addressed, disabled workers who have paid into a system they *thought* they could depend on will continue to be let down and the wait will only continue to grow.

In May 2007, Social Security Commissioner Michael Astrue presented a “four- pronged plan to eliminate the backlog and prevent its recurrence, based on (1) compassionate allowances (ensuring that the most severely disabled who are likely to be approved will receive benefits quickly⁵⁶); (2) improving performance; (3) increasing adjudicatory capacity; and, (4) increasing efficiency with automation and business processes.”⁵⁷ He also noted that, “Congress has appropriated on average about \$150 million less each year than the president has requested since 2001.”⁵⁸ In order to aggressively reduce the backlog, more money must be allocated to the Social Security Administration to hire more ALJ judges and support staff.

Although this plan may initially reduce the number of backlogged cases, two issues still must be addressed – initial denials and the appeals process. Adequate steps must be taken to reduce the number of initially denied applicants. Compassionate allowances, such as cancer cases, may help, but what about the disabled worker who has been technically or medically denied? In a worst case scenario, these applicants who are initially denied and appeal their cases could be denied four times before receiving benefits.

Many people have lost their homes and some their lives while waiting to receive benefits. These people put their faith into a system that was supposed to help. The system has failed them and could fail thousands more if immediate, effective changes are not made.

⁵⁶ Federal Registrar, Social Security Administration, 7/31/2007, *Compassionate Allowances*.

⁵⁷ Social Security Administration, Benefits for People with Disabilities, Summary of Initiatives to Eliminate the SSA Hearings Backlog – Addendum.

⁵⁸ *Ibid*