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TESTIMONY

Securing the Future of the Social Security Disability Insurance Program

NICOLE MAESTAS

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Testimony presented before the House Committee on Ways and Means, Subcommittee on Social Security on March 20, 2012

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Nicole Maestas[1]
The RAND Corporation

Securing the Future of the Social Security Disability Insurance Program[2]

Before the Committee on Ways and Means
Subcommittee on Social Security
United States House of Representatives

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Although consistent treatment of similarly situated individuals is an important principle in any evaluative system like the Social Security Disability Insurance (SSDI) program, some degree of variation in decision outcomes across evaluators is inevitable. In other settings, variation in decision outcomes has been associated with case complexity, dynamism of the subject matter, size of caseload, the resources available to assist decision-making, attributes of the evaluators such as their prior experiences, and the training and guidance provided to evaluators (Ramji-Nogales, Schoenholtz and Schrag, 2007; Legomsky, 2007).

Indeed, Disability Determination Service (DDS) case examiners are called on to evaluate and weigh many aspects of complex cases against extensive medical and vocational criteria in a dynamic medical environment. They have heavy caseloads and although they may consult with physicians, they are not themselves trained physicians. These factors point to the importance of examiner judgment in initial disability determinations. The Social Security Administration (SSA) has undertaken studies examining variation in allowance rates across DDS examiners, states and adjudicative levels. In a seminal study, Nagi (1969), SSA commissioned an expert panel to perform external audits on a sample of SSDI applications and found that the panel agreed with the original award decision in just under 70 percent of cases. In a similar study, Gallicchio and Bye (1981) replicated a sample of claims decisions both within and between states, and found that within-state disagreements were in many cases as large or larger than disagreements across states. It is unlikely that matters have improved since the time of these early studies. As the SSDI caseload has grown, the composition of applications has shifted toward impairments with greater diagnostic uncertainty; chief among these are musculoskeletal and mental impairments, which now comprise 59 percent of all applications. These points suggest that even though consistency in applying the disability assessment criteria is intended, it may not be easily achieved in practice.

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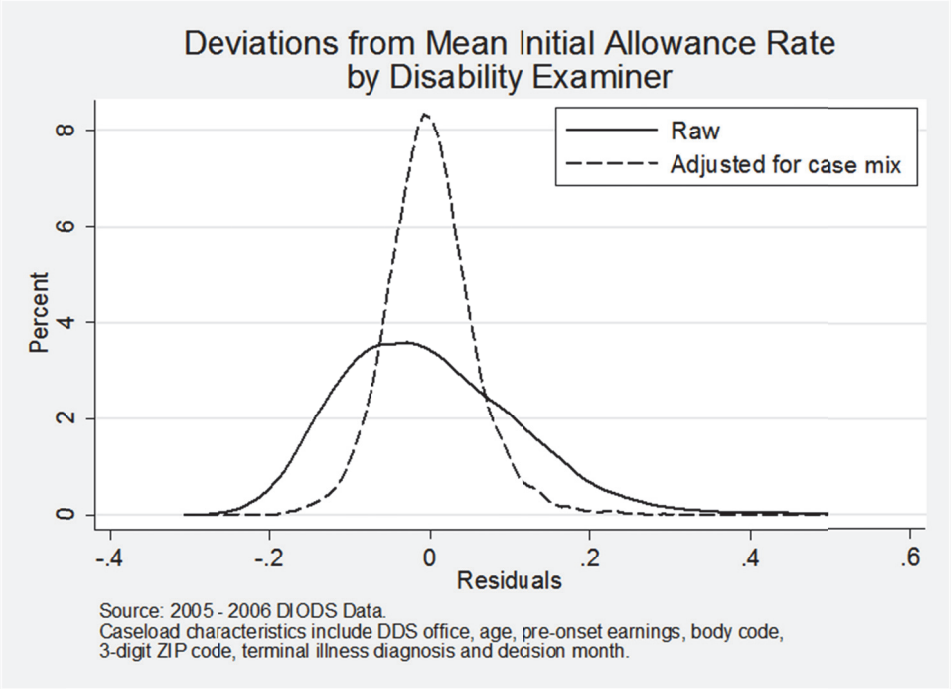
[2] This testimony is available for free download at http://www.rand.org/pubs/testimonies/CT373.html.

While we can be certain that variation in examiner decisions is expected, it is much more difficult to determine *how much* variation is expected and how much variation is too much. While we may not be able to say how much is too much, we should nonetheless try to minimize the extent of variation as much as possible.

In our analysis of initial disability determinations recorded in SSA's Disability Operational Data Store in 2005 and 2006 we find a notable degree of variation in initial outcomes across DDS examiners within the same DDS office that cannot be explained by factors such as differences in the mix of cases they evaluate (Maestas, Mullen and Strand 2010). Figure 1 presents a histogram of examiners' deviation from the overall allowance rate within their DDS office, both unadjusted and adjusted for differences in case mix. Case mix controls include the fraction of cases in a given age group, body system code category, terminal illness category, the fraction decided in a particular month, as well as the average prior earnings of applicants assigned to a given examiner, and indicators for DDS office and 3-digit zip code.

Figure 1



As expected, adjusting for case mix reduces the standard deviation of examiner initial allowance rates from 10 percent to 6 percent. This means that after adjustment for case mix, one-third of examiners have allowance rates more than 6 percentage points above or below the average allowance rate in their DDS, and 5 percent of examiners have allowance rates more than 12 percentage points above or below the average.

A consequence of the variation in decision outcomes across examiners—variation that cannot be readily explained by differences in the characteristics of their caseloads—is that for many applicants, whether they are allowed or denied benefits depends upon the examiner to which their application is assigned. Since, as Figure 1 shows, most examiners have initial allowance rates near the average for their DDS office, most applicants would have received the same initial determination if their application had been assigned to a different examiner. But even so, due to the examiners who are not near the average, we estimate that as many as 60 percent of applicants *could have* received a different initial determination from at least one other examiner in the DDS office, had they been assigned to that examiner instead. The magnitude of this measure is driven by the examiners who have the lowest and highest allowance rates in a given DDS office. For example, if we remove from our calculations the top and bottom one percent of DDS examiners in an office (those with the highest and lowest allowance rates), then the percent of applicants whose initial decision depends on the examiner they are assigned to would fall by half—from 60 percent to 28 percent.

The appeals process significantly dampens the effect of examiner variation. In our administrative data, nearly half of all initial denials are appealed, and 75 percent of these are overturned. Once we account for appeals, we estimate that 23 percent of applications could have received a different *ultimate* outcome had they been assigned to a different examiner. If we again remove from our calculations the top and bottom one percent of examiners in a DDS office (again, those with the highest and lowest allowance rates) this number would fall to 11 percent.

These numbers illustrate two points. First, although most examiners have allowance rates that are near the average for their DDS office, many have allowance rates that are notably below or above their office average even after adjusting for differences in case-mix. Because applicants could potentially be assigned to any of these examiners, applicants face a significant degree of uncertainty as to whether their application will be initially allowed or denied. Improving consistency across examiners would significantly reduce this uncertainty about initial outcomes. Second, these statistics are not estimates of the fraction of applicants who should have been denied. Rather, they identify the size and characteristics of the group that would be most affected by changes in the policies and procedures used in disability determinations. This group disproportionally includes younger claimants, claimants with low earnings histories and claimants with mental impairments (Maestas, Mullen and Strand 2010).

At present, the variation in examiner allowance rates and the high probability of having an initial denial overturned on appeal means that it is usually worthwhile for denied applicants and their attorneys to pursue appeals. But the appeals process is costly—not just for the federal

government but also for the individual applicants themselves. From the time that an SSDI application is filed to the time a final determination is made, an applicant may not earn more than $1,000 per month in paid employment, since this would exceed the Substantial Gainful Activity (SGA) threshold and result in a denial of benefits. In our administrative sample of SSDI applicants who received initial decisions in 2005, the average time from SSDI application to final determination exceeded one year. But this average masks a dramatic difference in average waiting time between those who did not appeal their initial decision and those who did. Those who did not appeal waited an average of 4 months while those who did appeal waited an average of 2 years before receiving a final determination.

This substantial time spent out of the labor force while seeking benefits may potentially have detrimental effects on skills, job readiness, and employability. Indeed, we find that longer application processing times significantly reduce the employment and earnings of SSDI applicants in the years after their initial decision. A one standard deviation (2.4 months) increase in initial processing time reduces annual employment rates by about 1 percentage point (3.2%) in years two and three following the initial determination, and persists into the fourth post-determination year (Autor, Maestas, Mullen and Strand 2011).

To contextualize these numbers, we use them to estimate the impact of average applicant processing times on labor force participation of SSDI applicants. This calculation suggests that the SSDI determination process reduces the post-application employment of denied applicants by an average of approximately 3.6 percentage points (6.8%) in years two and three following the initial determination and, similarly, reduces the average employment of allowed applicants by 5.2 percentage points (33%).

Our results suggest that the post-determination employment potential of applicants could be improved if the system could achieve greater consistency not only within the initial determination process itself, but also greater consistency between initial determinations and outcomes on appeal. Improvement along these dimensions would also help reduce the notable disparities between the system's treatment of different impairment types, some of which exhibit a much greater likelihood that benefits would be awarded on appeal versus in the initial determination. For example, among new SSDI beneficiaries, we find that 63 percent of those with musculoskeletal impairments were awarded benefits at the appellate levels, compared to 39 percent of new beneficiaries with mental impairments—consequently, beneficiaries with musculoskeletal impairments spend significantly more time pursuing benefits than those with mental impairments.

By reducing the variation in initial determinations, we would improve the targeting of the SSDI program—that is, we would increase the chances that people who truly qualify receive benefits and reduce the chances that people who do not qualify receive benefits. To the extent that decision thresholds could be better aligned between the initial and appellate phases, the share of those initially denied applicants who decide to appeal would likely decline, and the detrimental effects on future employment potential would be reduced.

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