

BRIEFLY...

September 27, 2017

EFFECT OF OALJ STAFFING LEVELS ON THE BLACK LUNG CASE BACKLOG

WHY OIG CONDUCTED THIS REVIEW

We conducted this review to inform stakeholders about the effect various staffing levels in the Office of Administrative Law Judges (OALJ) would have on the disposition rate of black lung benefits cases.

The Black Lung Benefits Act (BLBA) helps miners suffering from this incurable disease by providing monthly payments to them or their eligible survivors, and medical treatment for coal miners totally disabled by black lung. Black lung claims can take a long time to reach a final decision, as illustrated by the fact that the Office of Workers' Compensation Programs took, on average, almost a year to process a black lung claim. Claims appealed to OALJ then spent, on average, an additional 640 days—almost two years—at the agency before a judge issued a decision.

OALJ's black lung case backlog (number of cases not decided within a year of receipt) grew from 1,538 in Fiscal Year (FY) 2011 to 2,984 in FY 2015. We recommended in a 2015 audit report that OALJ address staffing and process improvements over its black lung case backlog. After implementing our recommendations and making other process improvements, OALJ's black lung case dispositions increased dramatically in FY 2016 and its backlog declined to 2,511 cases.

Many factors affect OALJ's ability to work through its current workload and the black lung case backlog. These include, among others, OALJ's staffing levels; judge productivity; the unpredictable number of incoming cases; shortage of lawyers representing miners or their survivors; and changes in OALJ's overall case load.

WHAT OIG DID

OIG conducted a review to determine the following:

How would adjustments to staffing levels affect OALJ's pending black lung case backlog?

For our review, we focused on staffing levels as the primary variable over which OALJ exercises some level of control. We created several scenarios to determine the impact of staffing levels on the black lung cases in its backlog.

OIG RESULTS

Adding 3 judges would reduce the time to eliminate the backlog by 21 percent, and adding 6 judges by 28 percent.

Based on our analysis, we project that assuming incoming cases, staffing levels, and disposition rates remain relatively constant, the number of cases in the backlog should be addressed in about 53 months, or sometime in FY 2021.

In our scenarios, we adjusted staffing levels without varying other factors mentioned above. We determined that by:

- Adding 3 judges, OALJ could reduce the time it would take to eliminate the backlog by 11 months – a 21 percent reduction.
- Adding 6 judges would reduce the time by 15 months, or about 28 percent.

OALJ provided no comments on our draft report other than to highlight our note regarding constraints on claimant representation.

READ THE FULL REPORT

To view the report, including the scope, methodologies, and full agency response, go to: <http://www.oig.dol.gov/public/reports/oa/2017/05-17-003-01-060.pdf>.