

April 14, 1993  
ILR 93-H

Senator Wilford R. Black, jr.  
826 North 1300 West  
Salt Lake City, Utah 84116

**Subject: Disability Determination Services**

Dear Senator Black:

As you requested, we have conducted a review of Utah's Disability Determination Services. We were asked to review what Disability Determination Services (DDS) can do to improve the timeliness of Supplemental Security Income (SSI) eligibility determinations. The reason we were asked to conduct this review was that in February 1992, DDS had a backlog of over 4,000 cases. During the backlog DDS's average processing time per case increased from 78 days to 155. As a result, special interest groups in the state along with others were concerned that benefits were not being provided in a timely manner, causing undo suffering and hardship for many who have no other income or resources on which to live.

Our review was limited because the Social Security Administration (SSA) denied us access to case records. According to federal officials, files are considered private and protected under the Federal Privacy Act (Social Security Act Section 221). In cooperation with the Legislative General Counsel, we have made numerous requests to review case files. The Social Security Administration continues to deny us access. Without access, the audit was unable to look at files to determine the efficiency of cases processed, nor were we able to verify complaints about the quality assurance review. Instead, we relied on interviews and aggregate data to support findings.

At this time, we have decided to advise you of what we have found to determine whether you believe we should pursue legal remedies to obtain access to case records. If you decide that additional information is needed, we will have to subpoena case files which we believe the Social Security Administration will oppose in federal court. Because of the time involved in pursuing a legal remedy, we decided to report what we have found, and to seek your advise about pursuing additional information through the federal courts.

Despite the lack of access to records, the audit still identified some concerns relative to the timeliness of cases processed. Our review was based on interviews with current and former DDS employees, federal officials, and DDS officials in other states. We identified

Senator Wilford R Black  
April 14, 1993  
Page 2

several factors such as, an increase in cases filed, lack of resources, turnover among staff, and more. All of which, in our opinion led to the February 1992 backlog, and if left unattended could result in another future backlog. Currently the backlog has been reduced to approximately 1,876 cases and the delay is approximately 65 days which according to management is normal. DDS management has agreed to our recommendation of hiring an independent professional consultant to further evaluate the organization and make appropriate recommendations.

### **Utah's DDS is Organized as Part of a Federal Program**

DDS is part of a federal program established by Congress and managed by SSA. In the 1950's Congress became aware that many disabled individuals were not able to earn sufficient Social Security credits to draw Social Security Income. As a result, Congress established a disability income program to take the place of earned credit and help those individuals that were still considered disabled under the law. The Disability Income program is managed by the Social Security Administration (SSA), who has the responsibility of administering two disability programs, the Social Security Disability Insurance (SSDI) program, and the Supplemental Security Income (SSI) program. These programs financially assist disabled people who meet the requirements set forth by SSA.

DDS has responsibility for only part of the determination process. The disability determination process first begins at the local SSA office, where claims are initially received and non-medical eligibility determined. The claim then advances to DDS where medical evidence is developed to render a decision on whether the claimant is or is not medically disabled. If the claim is determined ineligible, the application is sent back to SSA where an appeal of the decision can be made by the claimant. The appeal process starts with DDS reviewing their own original decision, it can then move to a Federal Administrative Law Judge, the Federal Appeals Council, the Federal District Court, and ultimately end up in the supreme court.

DDS is a state agency managed by federal statute. According to the DDS Director, the reason DDS is managed by the state is because it is cheaper for the federal government to administer the program through the state rather than add the employees to the SSA payroll. DDS is established under the direction of Utah's Department of Vocational Rehabilitation, which is under the State Board of Education. However, DDS operates under the policies and procedures established by SSA, and is completely funded by federal money administered by SSA. The following table shows how much money Utah's DDS and Board of Education received for FY 92.

Personnel Service Costs	\$1,741,636
Medical Costs	755,338
Indirect	302,332
All Other Nonpersonnel Costs	504,750
	<hr/>
	\$3,304,056

The above table shows that DDS was budgeted a little over \$3.3 million dollars, with \$302,332 going to the Board of Education as an indirect cost reimbursement. All other non-personnel costs include such things as office supplies, small equipment and utilities.

### **Utah Has Only Limited Control of DDS Office**

Utah has only limited control over the resources needed to operate the DDS office. With little or no control over many of the resources, DDS management claims they have a difficult time trying to operate an effective office. From February 1991 to September 1991, Utah lost 9 of 22 examiners or approximately 40% of the total examiner staff. DDS management was not allowed to immediately replace these examiners because SSA had imposed a hiring freeze. The Utah DDS office had to wait until September 1991 to begin replacing the examiners who left. SSA only authorized four new FTE's in September to replace the nine who left. Later SSA appropriated an additional four for a total of eight. Once hired, the new examiners had to be trained, which takes approximately one year so they can accurately meet SSA's case processing standards. As a result, cases continued to pile-up increasing Utah's processing time by 78 days or nearly 100% from previous years total. These delays increased the backlog of outstanding cases from 2,000 to over 4,000. During the same period the national backlog increased from 300,000 to 800,000.

Foreseeing an increasing backlog, the Director of Utah's Vocational Rehabilitation, who is over DDS, requested assistance from the Social Security Administration (SSA). In February 1992, when Utah's backlog exceeded 4,000 cases and the delay was 155 days, the SSA sent seven federal staff from the Denver Regional Office to Utah to help process cases. With their help, the backlog was cut to approximately 2,000 cases and the delay to 79 days by September of 1992. According to DDS management, these numbers are normal for pending cases and delays.

While the backlog has been reduced, keeping well trained examiners is important if cases are to be processed in a timely manner. Our interviews with former examiners and current employees indicate that staff morale is low and future turnover possible. Examiners say morale is affected by managements use of quality assurance coupled with high turnover. In fact, during our audit another examiner quit. According to DDS, the SSA has imposed another hiring freeze; as a result, they cannot replace the lost examiner, which means more work for an already overloaded system.

Senator Wilford R Black  
April 14, 1993  
Page 4

We discuss below the limitations the state faces in trying to manage a federally mandated and funded system. We further discuss conditions that exist that DDS management does control that they might change to avoid unnecessary examiner turnover.

### **Federal Government Controls DDS Budget and Staffing Levels**

The State of Utah exercises very little control over the resources used to operate the program. The federal government determines the DDS budget and staffing levels independent of DDS input. The federal government also establishes criteria regarding how cases will be decided. Examiners follow rules and guidelines established by SSA in making determination decisions. These decisions are then reviewed by SSA through a Quality Assurance System, which tracks accuracy and timeliness of cases processed against SSA standards. In addition, SSA keeps individual statistics on production and processing time.

**Budgets Fall Short.** The director says budgeted funds often fall short of what is needed. Budget amounts for DDS are established by the Social Security Administration based on prior year figures and adjusted for any projected increase or decrease. SSA uses the number of cases processed the prior year along with an estimated projection for the coming year to determine how much money and FTE's DDS will receive.

Annual budgets are difficult to project. They are based on the estimated number of cases expected for a year which is difficult to estimate. The number of cases varies from year to year depending on the economy and the number of grants given to attract claimants. The economy is a major factor, if the economy is bad cases tend to increase, if the economy is good they tend to decrease. Also, SSA gives grants to various groups such as, hospitals and human service groups. Grants are monies used to search for and encourage potential qualified individuals to apply for disability benefits. Given a constantly changing economy and the search for additional applicants, it is difficult to project the number of applicants the Utah DDS Office will receive each year.

According to DDS management, once the budget has been established, it is difficult to get any adjustments or increases during the year. For example, if the economy experiences a downturn causing more applications than projected, DDS has difficulty getting SSA to make budget and staff adjustments. As a result, Utah DDS can be left without adequate resources to process the unexpected case load. Further, there are no reserve or emergency funds available for SSA to make adjustments. The only option is for SSA to go back to Congress for additional funding.

**Staffing Levels are Inadequate.** According to the director staffing levels during the backlog were inadequate. Staffing is directly related to the budget. It is determined based on SSA projected caseload and a standard number of cases processed per examiner, which essentially determines the budget. Therefore, if the budget falls short the staffing level also falls short.

According to DDS management, Utah's staffing levels are not adequate. SSA national staffing standards do not take into consideration staff turnover and the time required to train new examiners. Therefore, based only on the number of examiners and the standard caseload per examiner, Utah's staffing levels may be adequate. However, with Utah's turnover rates and the delay caused by hiring and training of new examiners, the standard number of cases processed cannot be maintained. According to the director, a minimum of one year training is required before new examiners can be expected to reach the standard number of cases processed.

According to SSA, Utah's staffing levels are adequate. In fact, Utah may even be overstaffed according to the amount of money given for staff. According to Denver SSA officials, statistical indicators show that Utah is doing well in both processing time and accuracy. Accuracy has always been good in Utah and processing time is now below the national average. SSA officials see no need to be concerned about the future of Utah's DDS. However, as mentioned earlier in the report, SSA officials do believe that Utah needs to raise examiner salaries and move to new office space, but the staffing levels are adequate.

In our opinion, current staffing levels may be adequate at this time. However, if staffing levels are not reasonably maintained, and heavy turnover is experienced again, Utah cannot be expected to process cases in a timely manner or in accordance with SSA standards. Later in the report we recommend measures that need to be taken by DDS to maintain trained and experienced examiners.

## **Benefits vs Liabilities of DDS Involvement**

Utah needs to decide if the state and the legislature are not permitted adequate oversight and authority, it may be an option to consider turning the program over to the federal government rather than continuing to struggle with the control and authority issues. As mentioned earlier, the auditors were denied access to case file records. In a response by the Assistant Attorney General for the Utah State Office of Rehabilitation, he states, *"even if federal officials conceded that the state could conduct such an audit, the extent of the audit and the conditions under which the audit could be conducted are obviously within federal discretion."*

The State of Utah does benefit somewhat from DDS being a state agency. Financially, the State Board of Education receives approximately \$300,000 through an indirect cost reimbursement from the federal government. According to the Director of DDS, this money is given to the State Board of Education to be used for various costs associated with the DDS operation. In addition to the financial gain, the State of Utah is able to employ nearly 48

employees who play an active role in the determination of benefits to Utah's disabled.

Along with the benefits, Utah has also experienced considerable liabilities. One major liability is a pending law suit filed on behalf of individuals who were denied benefits by DDS. A lawsuit has been filed against SSA and DDS, alleging that policies and procedures used to deny applications are restrictive and illegal. Even though DDS is federally controlled, the director told us that the State Board of Education is responsible for DDS's legal representation and any costs associated will likely come out of the in-direct cost reimbursement received from SSA. The Utah Attorney General's Office is in the process of asking the court to dismiss the lawsuit and any liability against the state. However, if the suit is not dismissed and Utah is found liable, we wonder who will pay the settlement?

Utah has also experienced criticism from special interest groups and has been given media attention. However, some of the criticism is based on DDS's limited authority over an office that is mostly federally controlled. As you are aware, during the backlog most of the attention by special interest groups was focussed on DDS's ability to process cases in a timely manner. Concerns were brought up that questioned the competence of DDS management, and calling for change. Some of the criticism is a direct result of the limited control DDS management has over certain resources (budget and staffing). However, other criticism which relate to the backlog fall directly under DDS management's control.

Interviews with past and current examiners indicate that some office problems could be addressed by DDS management. While the major problem may have been the backlog and the lack of available resources at the federal level of government, it was essentially the turnover coupled with the increase in cases that caused the backlog. Our interviews with examiners indicate that turnover may have been minimized during the backlog had management been concerned with other factors such as, office morale, and management's use of Quality Assurance. Examiners believe that had management addressed these concerns DDS would have experienced less turnover, consequently, the backlog would not have been as large.

Management believes that low salaries and the very nature of the job were the main causes of turnover. Consequently, their efforts were focused on raising examiner salaries to eliminate the high turnover. However, we feel that low salaries are not the only thing management needs to be concerned about if they want to eliminate turnover. Management may have overlooked other concerns such as, office moral and the use of Quality Assurance. Management told us that they believed morale was improving and that the Quality Assurance function was not as negative as employees had mentioned.

### **DDS Management Needs to do More To Reduce Turnover**

As explained above, the increasing caseload coupled with examiner turnover was the principal cause of the backlog. DDS management has taken some action to control turnover. They have increased starting salaries and tried to improve physical office conditions. While these are positive steps, we believe that turnover will continue unless employee morale is improved. Morale in the office appears low because some examiners believe that management is using the Quality Assurance System in a punitive way to eliminate employees from the office.

**High Employee Turnover.** Management and examiners appear to have different views as to why turnover occurred. In 1991, DDS had a turnover rate of 40% compared to the national average of 12%. The turnover rate among Utah's examiners was extremely high and one of the

major contributors to the backlog in February of 1992.

Management explained to us that examiners left DDS due to an increase in workload, pressure associated with the backlog and low pay. According to DDS management, many of the former DDS employees quit on their own and moved to better paying jobs with less stress. Management also mentioned that SSA's production per work year (PPWY) standards increased from 168 cases per employee in 1986 to 250 cases in 1993. However, we contacted five of the examiners who left during the backlog to determine why. Four of the five told us that they were forced out by management through the in-house quality assurance system and did not leave because of low salaries.

The same former examiners say they were forced out by the workload pressure put on them by management. Examiners say that due to negative management\examiner relations, management used the backlog as a way to force certain examiners out of the office. Examiners told us that the negative relations stemmed from their complaints about how the office was being managed and asking for changes. Specifically, examiners complained about the increased workload pressures, low pay, office conditions and the quality assurance system. Former examiners say that, management instead of trying to do something about the complaints simply singled them out and allowed unsatisfactory ratings to be given through the quality assurance system. Examiners believe they were given unsatisfactory ratings because of the complaints made against management.

Management told us that many of the examiners who left were unable to handle heavy workloads. As a result, most of those who left were performing below standard. Approximately three years ago, SSA implemented a new system that requires examiners to prove whether a claimant is or is not disabled. Before the change, the burden of proof was on the claimant to provide enough information in the application for the examiner to make the decision. If enough information was not provided, the examiners could deny the application based on that fact. However, now under the new system change, if enough information is not provided the examiner must obtain the information before a decision can be made. For instance, if there is no record of a physician's examination, the examiner must arrange an exam for the claimant. According to DDS management, some examiners were unable to adjust to the new policy and allowed cases to lapse.

**Low Examiner Morale Continues.** Contention continues to exist between current examiners and DDS management. Our interviews with current examiners found that seven of the eleven interviewed are looking for new employment. Nine of the eleven we talked with told us that morale in the office is low. They believe that the quality assurance system is causing the low morale. In their opinion, management is using the system in a punitive way rather than constructively to improve the overall quality of their work. They believe that management has ignored their concerns about declining examiner morale; and as a result, believe their only option is to look for other work.

When we discussed the possibility of further examiner turnover with management, they were surprised about staff's concerns. They told us that morale had been low during the backlog, but thought that it had improved with such additions as: an on-line computer system to improve production, a modified training program to better orient new examiners, a new unit with a supervisor to allow more support, and revised policy on leave and vacation to allow examiners time off without cases backing up.

**Quality Assurance a Source of Controversy.** Examiners believe that turnover was not only the result of the backlog, but also managements use of quality assurance (QA). Former

Senator Wilford R Black  
April 14, 1993  
Page 8

employees told us that management used the QA function to force them out. Four out of five former employees said they were forced out through the QA function because of complaints they made against management. Former examiners believe that because they spoke out about the problems in the office, management used the quality assurance function to eliminate them.

Quality assurance is an end-of-line function intended to detect and correct errors in DDS claims processing. Utah's in-house quality assurance function randomly selects approximately 10-30 percent of all cases for review. The QA Reviewer will then review each case to determine if substantive or technical errors exist. A technical error is where information is incorrectly entered, such as inputting a wrong code or failing to enter a claimant's social security number. A substantive error occurs when the actual decision is wrong or the decision is made without adequate supporting documentation. In addition to the in-house review, SSA also has a QA function which selects an additional 10 percent of all cases for review.



The QA function operates under guidelines established by SSA. However, SSA has made it optional for states to choose whether they have an in-house QA function or not. Utah has opted to have an in-house QA function in addition to the federal function. The importance of QA is not only to provide control for detecting and correcting errors but, DDS management also said, it provides a means for measuring individual performance while ensuring the best possible service to the public.

DDS management keeps individual employee statistics based on the number of cases processed and their accuracy. During the time the workload demand was high, some of examiners began to receive increased accuracy errors charged to the cases they were processing. Consequently, unsatisfactory annual performance evaluations were given to those individuals through the QA review function. Two unsatisfactory ratings could result in termination of the employee. Management has in the past terminated employees for unsatisfactory performance ratings. All examiners who were given one unsatisfactory rating feared being fired and opted to leave on their own and find employment elsewhere.

Many examiners expressed a need for change in the QA function. The majority of examiners interviewed believe QA is a necessary and an essential part of the DDS operation. However, they also believe that a number of changes need to be made to improve the function. One of the major changes suggested was that DDS use the results of SSA's QA review to evaluate and promote employees rather than the in-house figures currently being used. Examiners say that using the results from SSA's QA review would eliminate any bias on the part of DDS's management. Examiners further suggest that if management chooses not to use SSA's results that the in-house QA still could improve by only returning substantive rather than both substantive and technical errors. SSA only returns substantive and not technical.

DDS management is aware that QA has been a source of dissatisfaction among certain examiners, but they were not aware of examiner allegations of being forced out based on QA results. Management indicated to us that employees in the past have complained about the QA function. However, management told us that those former examiners who complained about QA are typically the ones that can't accept personal responsibility and were having problems with the work.

Management believes that training would be more effective than review. Management made an attempt to do away with the in-house QA function earlier this year, but when accuracy statistics began to fall, QA review was reestablished. Management told us that they think training would be a much more effective quality control as opposed to reviewing. However, at the time QA was done away with there was no attempt by management to initiate more in-house staff training as a compensatory measure. The federal government does give state DDS's enough freedom to choose whether they want to train or review.

All except one of the states we called have a QA function. Four out of the five states we called have an in-house QA function which they use as a quality control function, and employee evaluation. The one state which has eliminated the in-house function relies completely on the federal QA results for quality control, and employee evaluation. All states that have QA told us that they have experienced much of the same negative feedback from examiners that Utah does. However, three of the states have involved management and supervisors by allowing them to review cases and give feedback during the process rather than just at the end. Utah's DDS also reviews cases during the process but does not consider this part of the QA function but part of supervision. In addition, employees from other states are given an opportunity to correct their errors prior to them being returned. Management in these states say it has helped the QA function

become more positive.

Management and examiners agree that changes in the QA function are needed. Examiners feel the function is punitive and too subjective to be used for performance evaluation. Management agrees the function is subjective, but is concerned about case accuracy. The audit would have liked to have done more work in this area. However, as mentioned above, denial to cases files limited our review. Regardless, the report has identified further efforts that can be made by management to eliminate much of the high turnover. To do this, we recommend that DDS hire an outside consultant to further assess the office conditions and the morale. DDS management has agreed to this recommendation.

**Salary Differential has Closed.** Management's attempt to raise examiner salaries has resulted in closing the salary differential between starting and experienced examiners. Experienced examiners say salaries are low compared to other states, even though a recent salary survey suggests the range is competitive with western states. DDS salaries are paid by the state under the general classified pay plan and reimbursed by the federal government through SSA.

Among the current examiners interviewed, seven out of eleven mentioned low salary as a concern. Examiners indicate that compared to other states, Utah ranks low in terms of examiner salaries paid. Most of the ones expressing concern have been with the office for over two years. DDS has been authorized by the Department of Human Resource Management (DHRM) to improve the salaries of starting examiners. However the issue of current employees' salaries still exist.

DHRM feels the salary range is adequate. DHRM through a recent salary survey determined the salary range for current examiners is adequate compared to nine other states. However, DDS examiners made an appeal to DHRM stating that they feel the study demonstrated inadequate research data and insufficient understanding on the part of DHRM of the duties and responsibilities of the position. DHRM has not had time to respond to the appeal but has indicated that according to the salary survey results, examiner salary range will not increase.

DDS management has been given authorization by DHRM to increase the starting salaries of examiners by one full grade. DDS management says this is one step in the right direction. However, it has created an additional problem in that DHRM has eliminated one full grade from the career ladder, allowing starting salaries to be at the same level as some experienced examiners. According to DHRM, experienced examiner salaries will not increase this year except for the merit increase that was given by the legislature. DHRM rules state that agencies do not have the option of increasing salaries without legislative approval.

We believe that salary level is an issue that is affecting morale and should be addressed by management. If starting salaries are going to be raised it seems that those salaries should not be made equal to salaries of employees who have more experience and who are performing adequately. We recommend that DDS management look at starting salaries compared to experienced salaries and determine what step each employee should be at based on experience and performance.

**Physical Office Conditions are Lacking.** According to examiners interviewed, poor physical office conditions make it difficult to work and add to the already high stress levels associated with the job. The State Board of Education is aware of the office conditions and is making attempts to obtain new office space. The board is responsible for acquiring DDS office space.

According to interviews, nine out of eleven examiners say that adverse office conditions have

Senator Wilford R Black  
April 14, 1993  
Page 11

created problems. Examiners say that inadequate office space coupled with heating and air conditioning problems have increased stress levels and made it difficult to work. Examiners are expected to meet a standard level of cases processed per day. According to examiners, current office conditions make it difficult to meet that standard.

Management agrees that physical office conditions are not adequate. Management says that more space is needed and current conditions do need improvement. Currently, conference rooms are shared with Vocational Rehabilitation (which DDS is under) and some staff are doubled up in offices. Management has made the State Board of Education aware of the problem. However, the Board of Education has much the same problems and is currently working on securing funds to move to more adequate space or remodel. When education moves or remodels, DDS will likely benefit.

DDS has been pressured by federal officials in Denver to expand current office space or locate in other alternative space. According to the federal officials, guidelines and standards show that Utah does not have the recommended 11,000 square feet needed to house the current number of employees, which may be causing much of the stress. If DDS were to move or expand the cost would be absorbed by the federal government. However, DDS is under the direction of the State Board of Education which has no authority to move elsewhere or acquire new office space. Authorization has recently been given by the Legislature for education to pursue a lease purchase agreement with the current landlord.

Senator Wilford R Black  
April 14, 1993  
Page 12

## Summary and Legislative Options

Our audit did not determine if space or conditions are adequate or not. However, in our opinion the office space appeared to be sufficient and conditions adequate.

In summary, DDS, with the help of federal employees, has substantially reduced the backlog and the number of cases pending from February 1992. However, we feel that additional measures need to be taken to prevent any future backlog. The audit has identified areas that need attention such as quality assurance, salaries, and office morale. We recommend that management look at alternative approaches to QA review. Suggestions range from letting SSA do all QA review to having management become more involved at the in-house level. We recommend management look at starting salaries compared to experienced salaries and determine what step each employee should be at based on experience and performance. In addition, we have recommended, and DDS has agreed to hire an independent consultant to further assess office morale and make recommendations in areas that are effected.

If the Audit Subcommittee feels that this information is not sufficient and more is needed we would be happy to pursue efforts to obtain such information upon request. Again, we believe that if case information is subpoenaed it would likely be opposed by SSA and we would have to pursue further remedies in federal court. A further option exists, in that Utah can turn the DDS program back to the federal government and refuse to continue to operate a program that only allows for limited control. If this option is selected, further study would be needed to assess the pros and cons of such a move. We were unable to locate any such studies.

We hope that this letter has provided the information you requested regarding the Supplemental Security Income Program. A response from the Department of Disability Determination Services is attached. If you have any questions or need additional information, please contact us.

Sincerely,

Wayne L. Welsh  
Auditor General

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