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By Alex M. Parker [aparker@govexec.com](mailto:aparker@govexec.com) May 28, 2009

The economic downturn, inadequate funding and red tape are at the core of an increasing backlog of Social Security disability cases, panelists said during a roundtable discussion in Washington on Thursday.

The government has tried for years to reduce the number of cases awaiting review from administrative law judges, but the recession is a significant setback, said Alan Cohen, senior budget adviser for the Senate Finance Committee.

"Initial claims are going to skyrocket in 2010," he said during the forum, organized by the **Association of Administration Law Judges**. "The tsunami hasn't hit the administrative law judges here."

At issue are cases where a claim has been rejected at the state level and is sent to Social Security Administration ALJs. Currently, there are about 750,000 cases pending, according to Cohen. SSA has set a goal of reducing the pile of pending cases to 466,000 by 2013 -- a step SSA Commissioner Michael Astrue has told lawmakers would decrease average processing times from 500 to 270 days.

"You just need the money to properly administer the program," said Kathryn Olson, staff director for the House Ways and Means Subcommittee on Social Security. "Too much pressure to crank out cases really does undermine the integrity of the process."

Cohen said SSA's core budget is headed for an increase of about 10 percent from fiscal 2009 to fiscal 2010, which could help tackle the expected wave of claims. SSA obtained \$500 million from the economic stimulus package to address the backlog.

Patrick Augustine, an ALJ and former SSA regional chief judge in Boston and Denver, said bureaucracy is another issue. "Someone needs to convene a work task force, and needs to

basically look at the piecemeal fashion of the rulings that have stacked new requirements on the system and the process, and have made it more time-consuming," he said.

He noted that a variety of missteps -- some of which he claimed were innocent or inconsequential types of mistakes -- could trigger an "automatic remand," or a referral from SSA's Appeals Council to hear the case again.

Augustine also said technology intended to speed claims processing -- such as computerized case files -- could slow things down if it wasn't working properly. "There were times my judges were mopping the halls because the computer system is down," Augustine said. Computerized files sometimes take longer to read, he added, especially if all the judge is looking for is the summary of a complex medical document.

Some panelists said SSA's plan to reduce the backlog by 2013 was forcing judges to take on too many cases.

"I am truly stunned by the suggestion that administrative law judges should review 500 to 700 cases per year," said U.S. Magistrate Judge Jillyn Schulze, referring to an expectation set by Chief Administrative Judge Frank A. Cristaudo in a 2008 letter to administrative law judges. "That is truly unconscionable."

But Augustine said while he agreed there was a limit to how much a single judge should be expected to accomplish, he also thought there should be a minimum requirement.

"It's hard for me to justify a judge that does 200 to 220 cases a year," he said.

Marilyn Zahm, an administrative law judge, suggested in a presentation that the government rethink the idea of a non-adversarial system, which leaves it up to the judges to do much of the fact-finding for the cases. She said if attorneys for the government and claimants could discuss cases before a hearing, then they would be able to avoid the hearing altogether.