



Taxpayer Savings Using the Streamlined Fully Favorable Decision Template

The Association of Administrative Law Judges (AALJ) proposes that Social Security Administration's (SSA's) Office of Disability Adjudication and Review (ODAR) utilize a "Fast Fully Favorable" decisional template in order to save thousands of Judge and Decision Writer hours, which translates into greater decisional output, faster delivery of decisions to eligible claimants, and taxpayer savings. Our suggested streamlined decisional template captures all factual and legal requirements to support a Fully Favorable decision and eliminates unnecessary information and verbiage. By transforming the current lengthy fully favorable decision into a concise and legally sufficient shorter document, SSA/ODAR will be able to provide better public service. Our analysis indicates that the government could save over \$26 million dollars in work hours by freeing up critical personnel to focus greater attention on the backlog.

Formerly, Fully Favorable decisions were four pages long and were comprised of primarily boilerplate language. They did not require a great deal of time to generate instructions, draft and edit the decision.

Over the past few years, SSA has needlessly changed its policies to require that Fully Favorable decisions contain significantly more information; these decisions are now approximately ten pages long and require Judges and Decision Writers to prepare more complicated and time consuming decisions. Since approximately 45% of SSA/ODAR dispositions are fully favorable, this change has led to the unnecessary expenditure of an enormous amount of government resources.

There is no practical or legal need for a Fully Favorable decision to be so lengthy or contain so much information. Streamlined decisions, setting forth only necessary information, would result in considerable savings in scarce resources.

For purposes of the Continuing Disability Review (CDR), it is only necessary that the decision contain a finding of the most a claimant can do—this is known as the Residual Functional Capacity (RFC); only the impairments that have an effect on the RFC need be set forth. That the claimant may have other impairments is not relevant; there is no requirement that the evidence to support the RFC be detailed. With regard to own-motion review (occasional agency review of a favorable decision since the government is not represented at the hearing) of such a decision, the attorney reviewing the case must read all of the evidence and review the entire record to determine if the award was justified. Given this thorough review, there is no need for

all of the evidence to be detailed in the decision or for all of the medical opinions to be discussed. The decision must identify the medical and other exhibits supporting the Judge's decision, with the rest dismissed with a statement that they are inconsistent with the weight of the evidence.

A streamlined fully favorable decision would only contain the following:

1. Whether the claimant earned a certain level of income or "substantial gainful activity" (SGA); a simple statement that the claimant did not will generally suffice.
2. The severe impairments that are the basis for paying the case – the ones on which the RFC is based; it is unnecessary to list all severe impairments or the non-severe impairments, as they are not relevant to why the case was paid nor are they needed during the CDR process.
3. Whether or not the claimant meets/equals a Listing; cite the Listing and set out the exhibit numbers/expert testimony that support the finding (Step 3 analysis).
4. The RFC finding, with one or two paragraphs stating how the RFC was determined, with citation to the exhibit numbers that support the finding.
5. A finding that the claimant cannot return to his/her past relevant work (PRW) or that the claimant has no PRW.
6. The basis for the Step 5 finding – just one or two sentences setting out the "grid rule" (set of rules outlining factors considered for disability findings) or the VE testimony that there are no jobs which can be performed with the claimant's RFC.

Based on the above, the AALJ has calculated how much the use of the streamlined Fully Favorable decision template would save the government in terms of work hours, translated into dollars.

A finding of disability is made after a five-step analysis called the "sequential evaluation." At Step 3, disability can be found by medical criteria alone which are defined as disabling under the law, unless the claimant is earning a certain amount of income (as found at Step 1). At Step 5, a claimant can be found disabled using both medical and vocational criteria – this is a more complicated and time-consuming legal analysis.

Basis of our cost comparison:

The percentage of fully favorable claims paid at Step 3 – 8.7%

The percentage of fully favorable claims paid at Step 5 – 35%

The above percentages are based on the first quarter FY17 figures generated by SSA in connection with the Decision Writer Productivity Index (DWPI).

The DWPI is SSA's calculation of the amount of time it should take a decision writer to write decisions in twelve (12) categories of cases. The DWPI lists 3.03 hours for Step 3 and 3.94 hours for Step 5 fully favorable decisions. Based upon conversations with the NTEU, which represents the decision writers, we have determined that decision writers will save one-third of their writing time by using the streamlined fully favorable decision template.

Therefore, decision writers will save 1.01 hours for a Step 3 fully favorable and 1.31 hours for a Step 5.

There were 637,472 dispositions issued in FY16 (SSA figure). Applying the percentages of 8.7% and 35% listed above, there were 55,460 fully favorable decisions issued at Step 3 and 223,115 at Step 5.

Using the time saving formula of 1.01 hours for a Step 3 and 1.31 for a Step 5:

- **56,015 decision writer hours saved for a Step 3**
- **292,281 decision writer hours saved for a Step 5**

Thus, 348,296 decision-writing hours are saved using the streamlined fully favorable template.

Translated into dollars, using the average decision writer hourly rate of \$43.69 (SSA figure), the Agency could save:

- **\$15,217,051**

We have further estimated that each Judge could reduce the amount of time spent preparing decisional instructions and reduce the amount of time spent editing a draft decision, saving 30 minutes of time overall for each Step 3 and Step 5 fully favorable decision.

Therefore, based on a total of 278,575 fully favorable Step 3 and Step 5 decisions:

- **139,288 ALJ hours could be saved.**

Translated into dollars, with the average ALJ hourly rate of \$77.68, the Agency could save:

- **\$10,819,892**

The total work hours of both Judges and decision writers saved using the streamlined fully favorable outline:

- **487,584**

The total dollar savings that could be achieved using the streamlined fully favorable outline:

- **\$26,036,943**

Almost half a million work hours could be saved if this streamlined fully favorable plan were to be implemented, which means that more cases could be heard, more decisions could be issued, and the backlog could be significantly reduced.