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Commissioner of Social Security
P. O. Box 17703
Baltimore, MD 21235-7703

Re: Docket No.: SSA-2008-0033

Dear Sirs:

I am writing to comment on the proposed regulations to transfer responsibility for scheduling ALJ hearings from the judges themselves to the agency. I oppose these amendments for the following reasons:

- It is an additional step in the conversion of the deliberative, independent process of decision making by ALJ's into a pure numbers game.
- By asserting responsibility for the number of hearings that must be conducted by ALJ's, the agency is putting itself in the position to dictate ever increasing workloads without regard to providing adequate staffing. Given that the backlog of claims is increasing, the simplest solution, on paper, is to just increase the minimum number of cases ALJ's are responsible for doing, without regard to feasibility.
- The proposed regulations overlook the longitudinal and historical perspective of ALJ workloads. When I first started doing Social Security hearings, in 1974, the workload, per ALJ, was a fraction of the current level. Gradually, over the years, this workload has increase to its currently intolerable level.

The most efficacious solution to the current backlog would be to provide the existing ALJ's with adequate staff support so that maximum use of the ALJ's expertise can be obtained. This will do much more than any arbitrary imposition of minimum numbers of hearings to be conducted by all ALJ's.

By asserting control of the number of hearings the ALJ's must conduct, the agency, in effect, takes over the entire adjudicative process. The undersigned counsel currently appears before a broad range of ALJ's from numerous hearing offices. Some schedule hearings at 60-90 minute intervals. Others schedule hearings every 15 minutes. While certainly efficient, those judges who are conducting hearings every 15 minutes sacrifice the quality and content of the hearing simply to generate numbers. This has a direct and immediate consequence on the integrity of the results produced by the 15 minute

hearings. By empowering itself to establish a minimum number of hearings ALJ's must do, the agency thus jeopardizes the hearing process and the independence of the judges.

It is submitted that a far less dramatic and intrusive approach to the current backlog problem would be to adequately fund sufficient support staff to allow the judges to continue to increase their productivity. The reality is that as a group, the judges are already doing heroic numbers of hearings for which they receive little recognition or credit. Thus, rather than impose punitive measures to obtain even greater productivity, the agency should, instead work collaboratively with the judges and support them in their efforts to resolve cases in an independent and equitable manner.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Michael J. Mooney". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael J. Mooney

MJM/sel