

# The Appeals Council



# The Appeals Council

- Operates on a direct delegation of authority from the Commissioner
- Acts as the final level of administrative review
- Provides input on program policy, program guidance, as well as proposed regulatory and legislative changes

# The Appeals Council



- Currently, 62 Administrative Appeals Judges (with Executives) and 54 Appeals Officers
- Assisted by professional and clerical support staff, including approximately 500 attorney adviser/paralegal staff)
- Together, the Appeals Council and its staff are the Office of Appellate Operations

# Major Workloads

- Requests for Review
- Own Motion Review
- Civil Actions
- The Office of Appellate Operations serves as the policy lead for the hearing and appeals operations

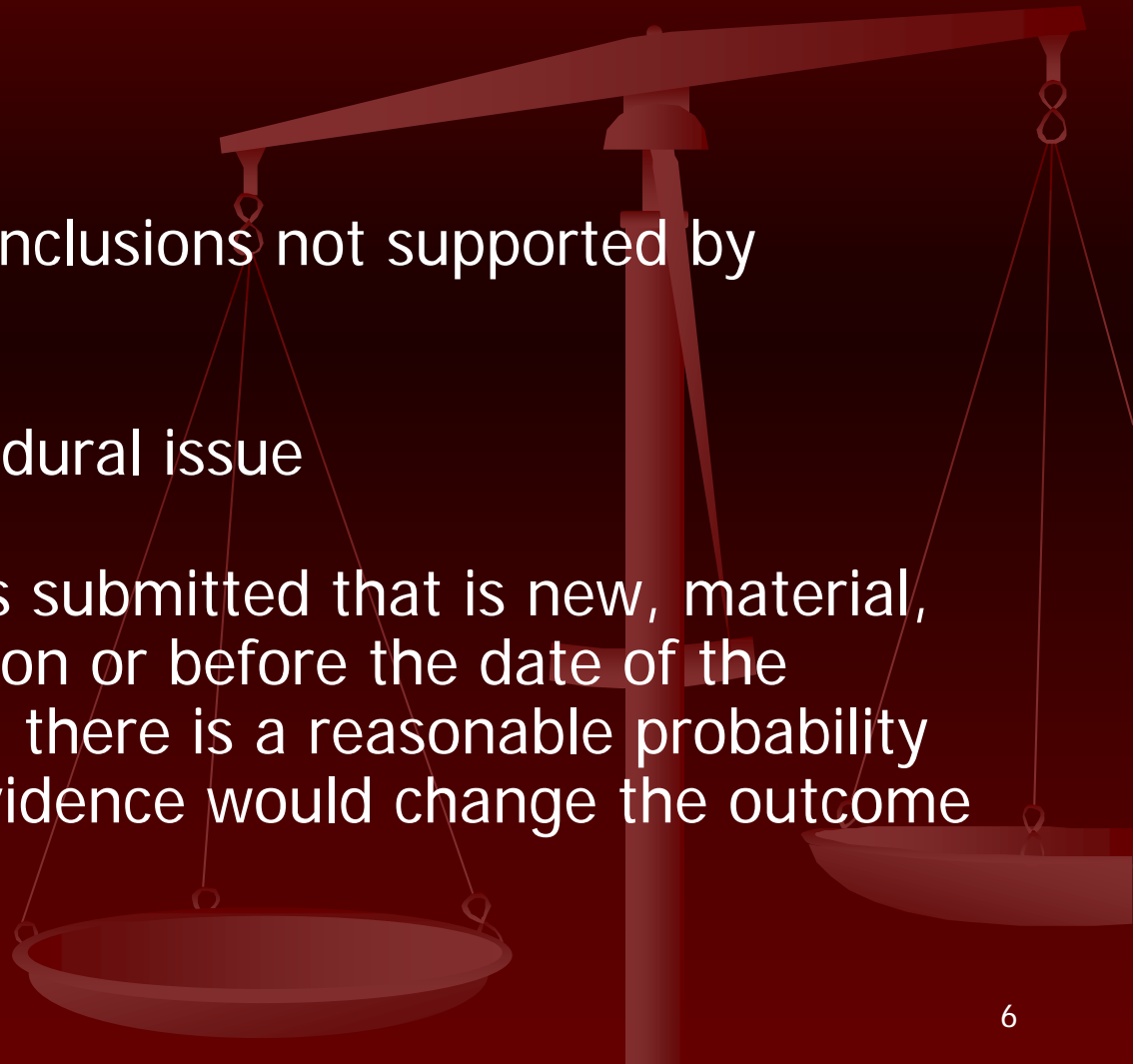
# Response to Request for Review

- Denial
- Dismissal
- Grant Review
  - Decision
  - Remand



# Bases for Granting Review

- Abuse of discretion
- Error of law
- Action, findings or conclusions not supported by substantial evidence
- Broad policy or procedural issue
- Additional evidence is submitted that is new, material, related to the period on or before the date of the hearing decision, and there is a reasonable probability that the additional evidence would change the outcome of the decision



# FY17 Requests for Review

- 128,133 received
- 160,776 processed
- 342 day average processing time
- 12% review granted



# FY18 Requests for Review

- 152,888 received (up 19.34%)
- 155,776 processed (down 3.00%)
- 256 day average processing time (down 25.15%)
- 14% grant review (17% increase)



# Civil Actions

- New court cases: review and preparation of the certified administrative record
- Requests for voluntary remand
- Court remands
- Final decisions after court remand

# FY17 Civil Actions

- 36,564 total civil actions processed by the Appeals Council
  - 18,445 new court cases
  - 3,030 requests for voluntary remand (RVR)
  - 8,381 court remands
  - 1,738 final decisions after court remand
  - 2,825 requests for extension of time

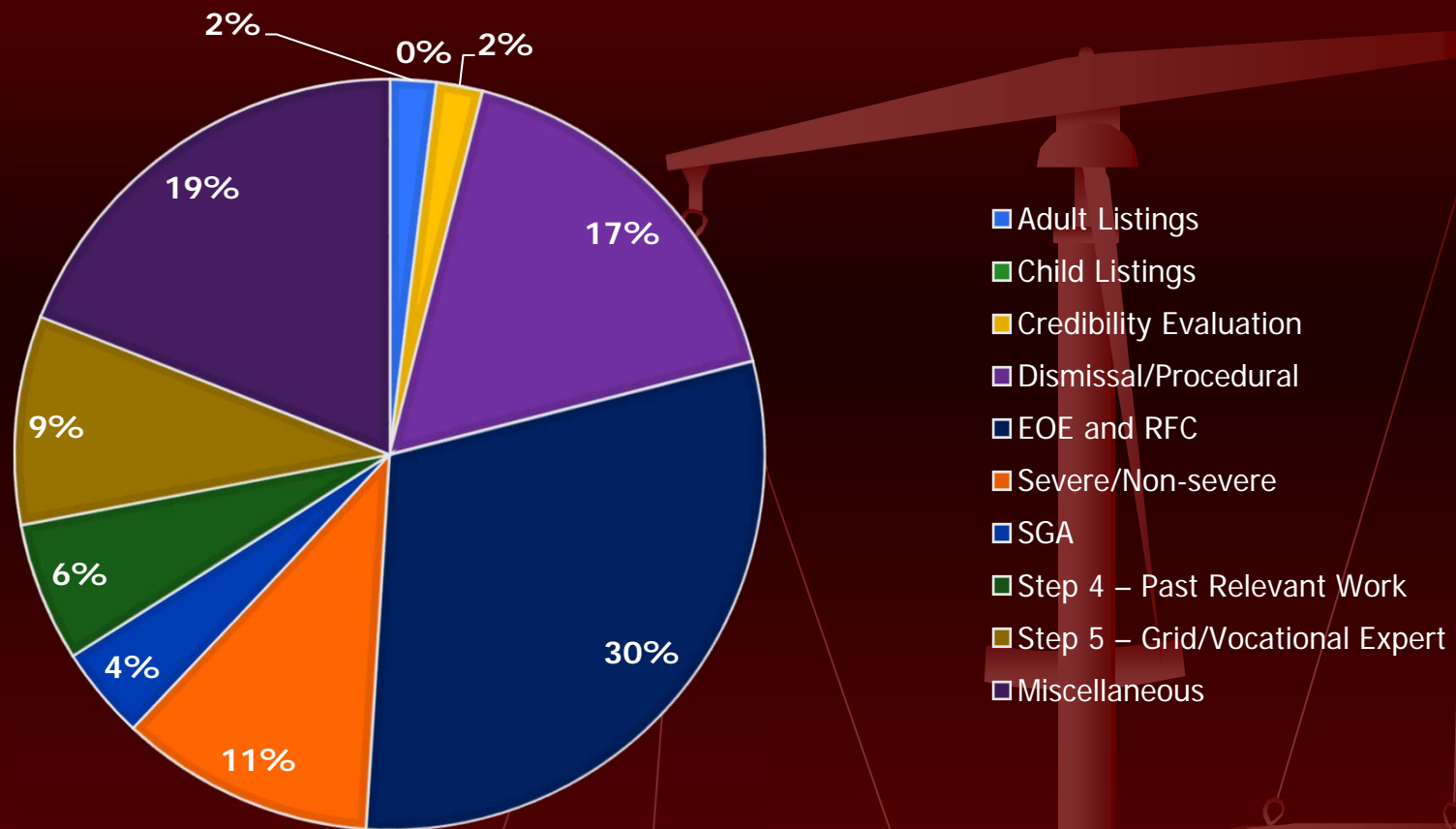
# FY18 Civil Actions

- 36,564 total civil actions processed by the Appeals Council
  - 18,252 new court cases
  - 3,339 requests for voluntary remand (RVR)
  - 9,655 court remands
  - 1,679 final decisions after court remand
  - 2,679 requests for extension of time

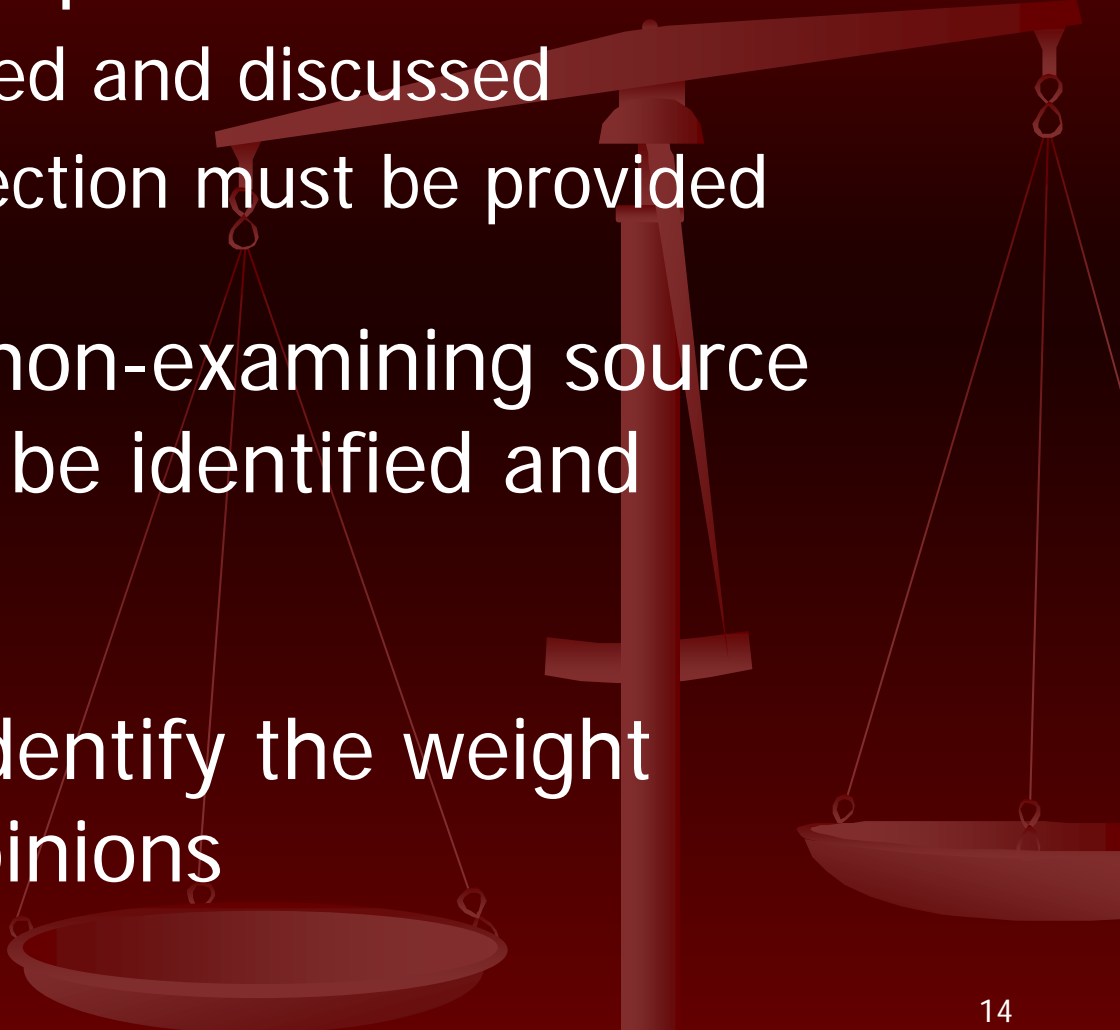
# Reasons for AC Remand

- In ARPS, there are 175+ different reasons for remand grouped into 12 major categories
- The most common categories for remand in FY17 were:
  - *Evaluation of opinion evidence and RFC*
  - *Adherence to dismissal procedures*
  - *Evaluation of severity at Step 2*
  - *Evaluation at Step 5 – Grid Rules/Vocational Experts*
  - *Past Relevant Work*
  - *Substantial Gainful Activity evaluation*

# Categories and Reasons for Remand in FY17



# Opinions – Claims Filed Before 3/27/17

- Treating source opinions:
    - Must be identified and discussed
    - Rational for rejection must be provided
  - Examining and non-examining source opinions should be identified and addressed
  - Decision must identify the weight accorded the opinions
- 

# Opinions – Claims Filed On or After 3/27/17

- Medical opinions by any medical source:
  - Must be identified and persuasiveness must be articulated in decision
  - Supportability and consistency are the most important factors
- Prior administrative medical findings:
  - A finding, other than the ultimate determination about disability, made by Federal and State agency medical and psychological consultants at a prior level of review
  - Must be identified and persuasiveness must be articulated in decision
  - Supportability and consistency are the most important factors
- No need to articulate consideration of decisions by other governmental agencies and nongovernmental entities or statements on issues reserved to the Commissioner

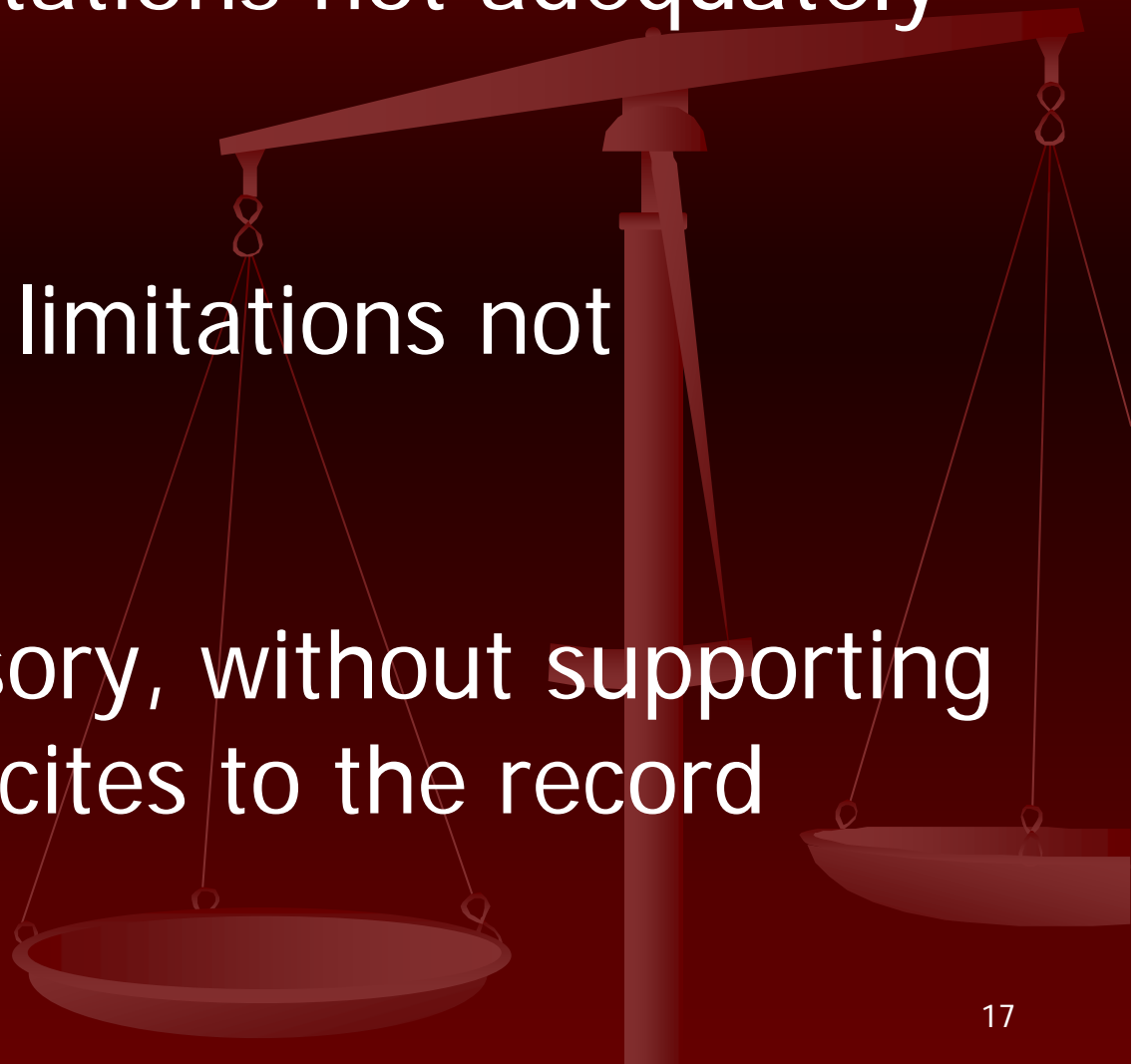
# RFC- Mental

- Decision finds severe mental impairment, but does not include any mental limitations.
- *B criteria* used as RFC instead of expressing in work-related terms
- RFC does not include limitations corresponding to B criteria



# RFC- Exertional

- Exertional limitations not adequately evaluated
- Nonexertional limitations not identified
- RFC is conclusory, without supporting rationale that cites to the record



# Symptom Evaluation

- Claimant's symptoms should be evaluated using the factors outlined in SSR 16-3p
- Opinions of nonmedical third parties should be addressed in claims filed before 3/27/17
- Decision should explain how the factors were weighed, particularly those that could support a different conclusion

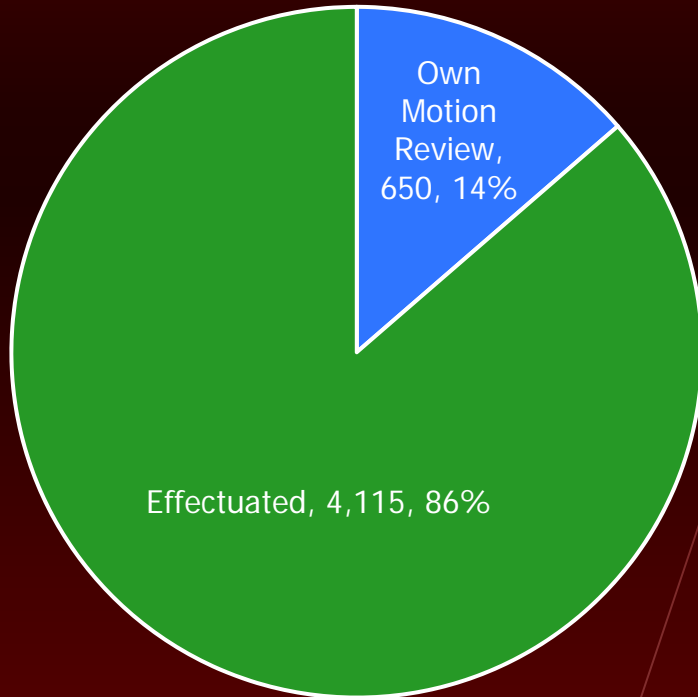
# New Evidence



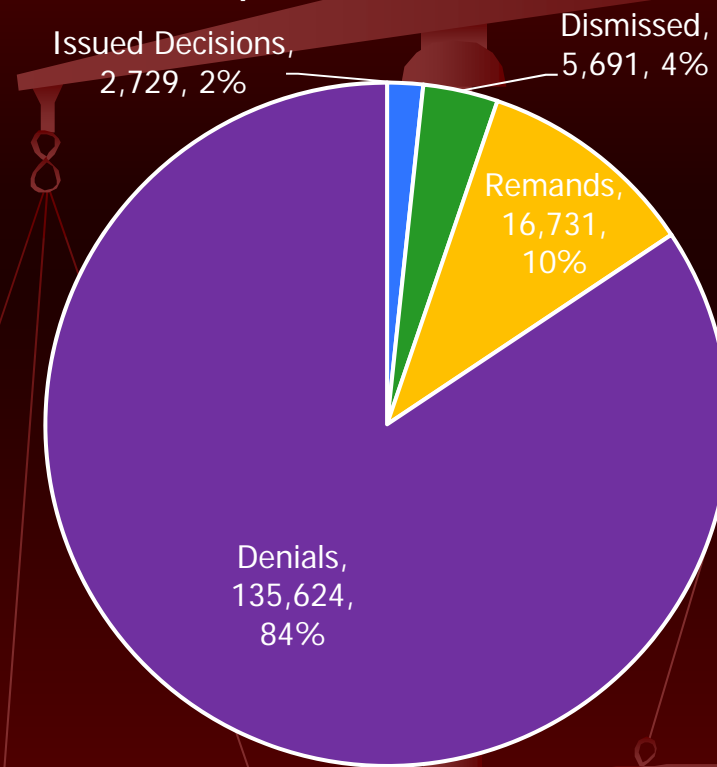
- New evidence submitted at the AC level
  - Good cause
  - New, material, related to the period at issue
  - Reasonable probability changes the outcome
- Closely related is inadequate development of the record
- The Agency strives for full development of the record as early as possible

# FY17 Division of Quality Review versus Division of Appellate Review

Division of Quality Review



Request for Review



# The Division of Quality Review



- Performed pre-effectuation reviews on 4,765 randomly sampled favorable ALJ and attorney adjudicator decisions in FY 17
- Conducted focused reviews on the work of specific judges, hearing offices, attorneys, doctors, and impairments
- Identified problems:
  - Decisions with almost no rationale
  - Conclusions not supported by the evidence of record
  - Less than Sedentary RFCs or inability to sustain work used frequently

# Program Analysis Staff

- Assists the Executive Director's Office by leveraging subject matter expertise and data analytics to review hearings, appeals, and litigation processes to improve policies
- Maintains agency archives
- Coordinates with other components on policy initiatives at regulatory and subregulatory levels

# The Appeals Council

