

United States House of Representatives

**Committee on Ways and Means
Subcommittee on Human Resources**



Statement for the Record

Protecting the Safety Net from Fraud, Waste, and Abuse

**The Honorable Patrick P. O'Carroll, Jr.
Inspector General, Social Security Administration**

June 3, 2015

Good morning, Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee. Thank you for the invitation to testify today, to discuss efforts to protect government assistance programs from fraud, waste, and abuse, such as the Social Security Administration's (SSA) Supplemental Security Income (SSI) program and the Department of Labor's (DoL) Unemployment Insurance (UI) program. My office oversees SSA's management of the SSI program, so I appreciate your interest in ensuring payments are preserved for those who are eligible. We are pleased to collaborate with you on ways to improve program integrity.

The SSI Program

SSI is a nationwide Federal assistance program that guarantees a minimum level of income for needy aged or disabled individuals. General tax revenues, not Social Security taxes, fund the SSI program, which allows individuals to meet basic needs like food, shelter, and clothing. According to SSA, in fiscal year (FY) 2014, the Agency made \$50.8 billion in SSI payments to about 8.4 million recipients.

Because SSI is needs-based and means-tested, many non-medical factors can affect SSI eligibility and payment amounts; for example, income, resources, living arrangements, citizenship, and requirements to file for other program benefits. The SSI program requires that SSA periodically re-assess individual's eligibility and payment amounts based on these non-medical factors. Except for certain confined individuals, all SSI recipients are periodically scheduled for a redetermination. Every year, SSA schedules for redetermination the cases most likely to have a payment error; but even cases unlikely to have payment errors are scheduled for review at least once every six years. In addition, the Agency conducts unscheduled redeterminations as needed when recipients report, or SSA discovers, certain changes in circumstances that could affect SSI eligibility or payment amount.

SSA has processes in place to detect situations that have the potential to affect SSI eligibility or payment amount. SSA conducts periodic computer matches between its own systems and those of other Federal and State agencies to determine if the information on SSI recipients' records conflicts with data obtained from other systems.

SSA's process of ensuring SSI payment accuracy also relies in part on individuals reporting changes in their income, resources, and/or living arrangements. Unfortunately, SSI recipients do not always accurately report these changes. For this reason, the Agency's greatest payment accuracy challenge is SSI overpayments. For FY2014—the most recent reporting year—SSA reported \$5.1 billion in SSI improper payments, including \$4.2 billion in overpayments.

Still, SSA continues to make significant efforts and dedicate resources to improve SSI payment accuracy. Over the years, the OIG has made many recommendations to limit SSI overpayments and to reduce fraud, waste, and abuse in the SSI program. One area of particular interest to your Subcommittee, is limiting SSI payments to incarcerated individuals and fugitives.

Stopping Payments to Prisoners

The *Social Security Act* prohibits SSI payments to individuals confined in a public institution. Specifically, SSA suspends SSI payments if a person is in prison for 30 consecutive days; payments can be reinstated in the month the person is released, but if confinement lasts for 12 consecutive months or longer, SSI eligibility is terminated, and the person must file a new claim.

Some of our earliest audit work examined whether SSA adequately obtained complete and timely information to determine if prisoners in Federal, State, or local corrections facilities collected retirement and/or disability benefits while incarcerated. We made several recommendations to SSA to improve procedures for obtaining prisoner information, including instituting agreements with corrections agencies to obtain information on all prisoners; and seeking an exemption to the *Computer Matching and Privacy Protection Act of 1988* (CMPPA) for prisoner-related data matches.

Because of our work, SSA undertook a major initiative to obtain prisoner data from all State and local corrections departments, and pursued legislation to improve the cost-effectiveness of prisoner data matching. The *Personal Responsibility and Work Opportunity Reconciliation Act of 1996* eliminated the need for SSA to enter into CMPPA agreements for prisoner matches; SSA has agreements to obtain prisoner data from all 50 States, the District of Columbia, the Federal Bureau of Prisons, and thousands of local facilities.

The CMPPA exemption for prisoner matches, and SSA's efforts to increase the number of matching agreements, has resulted in significant savings for SSA programs. Today, SSA receives prisoner data from corrections facilities monthly, and matches that data against the Agency's Old-Age, Survivors, and Disability Insurance (OASDI) and SSI records, halting payments to prisoners. SSA estimates that this results in the suspension of benefits to about 60,000 prisoners each year, saving about \$500 million annually.

We continue to review SSA's efforts to stop payments to prisoners.

- The *Social Security Act* allows SSA to provide incentive payments to State and local correctional facilities that provide inmate data to SSA.¹ The incentive payment provisions were established to encourage the reporting of inmate data that allows SSA to timely suspend payments to prisoners.

We review the accuracy of these incentive payments every few years. In a recent report, we estimated that from June 2008 through February 2014, SSA incorrectly issued about 128,500 incentive payments totaling about \$35 million.² SSA agreed with our recommendations to modify its process and system to pay incentive payments, and to reinforce established procedures to identify incarcerated individuals and recoup erroneous incentive payments.

- We reviewed SSA's processing of "Special Disability Workload" (SDW) cases to identify cases where individuals incorrectly received Disability Insurance (DI) benefits for periods when they were confined in correctional institutions. SDW cases were those identified by SSA in which SSI recipients prior to 2000 had become eligible for DI benefits but were not receiving them; the Agency retroactively resolved these cases, but did not always adjust back payments to account for past periods of incarceration. We estimated SSA overpaid about \$1 million to beneficiaries with periods of conviction and incarceration. SSA agreed to review the cases of beneficiaries

¹ Incentive payments are authorized in the following amounts: \$400 for information received within 30 days after confinement due to conviction for an OASDI beneficiary or confinement for an SSI recipient, or \$200 for information received after 30 days but within 90 days after confinement due to conviction for an OASDI beneficiary or confinement for an SSI recipient.

² SSA OIG, [*The Social Security Administration's Prisoner Incentive Payment Program*](#), December 2014.

who received payments while incarcerated and collect any overpayments; and to review the accuracy of payments made to about 1,660 individuals in its SDW with a criminal history.³

Fugitive Enforcement

In addition to prohibiting Social Security payments to prisoners, the *Social Security Act* prohibits payments to people who are:

- fleeing to avoid prosecution for a felony;
- fleeing to avoid custody or confinement after conviction for a crime which is a felony; or
- violating a condition of probation or parole imposed under Federal or state law.

Through our Fugitive Enforcement Program, we work with law enforcement agencies around the country to identify and locate fugitives, and, when possible, see that their Social Security benefits are suspended. Law enforcement agencies provide information to the OIG on people who have outstanding felony arrest warrants or who are violating conditions of probation or parole; SSA compares the information to its files of people receiving Social Security payments and/or serving as representative payees. If there is a match, the OIG works with law enforcement to attempt to locate the person and refers to SSA cases for suspension of benefits or removal of representative payee status.

In recent years, two court decisions have altered SSA's policy related to suspending payments to fugitives or people with parole or probation violations.

- *Martinez v. Astrue* challenged SSA's policy of basing payment suspension solely on the existence of an outstanding arrest warrant, rather than developing information to ensure the individual was "fleeing" from authorities. In September 2009, the U.S. District Court of Northern California approved a nationwide class-action settlement, which limited the types of felony arrest warrants that, on their face, prohibit Social Security payments. Under the *Martinez* settlement, for SSA to suspend benefits, a person's felony warrant must be for one of three specific offenses: escape, flight to avoid prosecution, or flight-escape.
- *Clark v. Astrue*, similarly, challenged SSA's policy of basing payment suspension based only on the existence of a warrant alleging a violation of probation or parole, rather than developing information to ensure law enforcement was actively pursuing the individual. In April 2012, a settlement was reached in this lawsuit, whereby a U.S. District Court in New York issued an order preventing SSA from suspending or denying payments based only on probation or parole arrest warrant information. SSA has applied this order nationwide.

Since 2009, our auditors have reviewed SSA's efforts to address the *Martinez* settlement, and they plan to review the effect of the *Clark* court order this year.

The court decisions have significantly limited SSA's ability to suspend benefits.

- In FY2009, before the *Martinez* settlement, as a result of the OIG's fugitive enforcement efforts, SSA suspended benefits for more than 58,000 individuals and identified \$440 million in overpayments, including \$165 million in SSI overpayments.

³ SSA OIG, [*Special Disability Workload Payments Made to Incarcerated Beneficiaries*](#), October 2013.

- In FY2014, with *Martinez* and *Clark* in place, SSA suspended benefits for 830 individuals and identified almost \$3 million in overpayments, including \$1.5 million in SSI overpayments, as a result of OIG fugitive enforcement efforts.

Your Subcommittee, however, with support from the Subcommittee on Social Security, recently introduced legislation that would prohibit felons with outstanding arrest warrants from receiving SSA payments. The *Control Unlawful Fugitive Felon Act of 2015* (CUFF Act) would discontinue payments to individuals who are the subject of an arrest warrant. The legislation only applies to felony charges, or a crime carrying a minimum term of one or more years in prison; SSA would also have to provide notice to the individual before suspending payments, and payments can be restored after the individual resolves his/her outstanding issues. The legislation also has a “good cause” provision that allows the Commissioner discretion in certain circumstances to not suspend payments.

Should a new fugitive bill pass, we estimate that our fugitive workload would increase to beyond pre-*Martinez* levels, and SSA could potentially stop hundreds of millions of dollars in payments to individuals with felony warrants.

SSI Program Integrity

Additionally, we have done significant work and made many recommendations to SSA that support our primary focus on program integrity. SSA is not required to complete a given number of SSI redeterminations each year, but we continually encourage the Agency to prioritize resources to increase the overall number and frequency of redeterminations conducted. Since 2009, SSA has received dedicated program integrity funding to complete integrity reviews; in FY2008, SSA conducted about 900,000 redeterminations (12 percent of SSI recipients), but that number increased to 2.4 million redetermination (29 percent of recipients) in FY2013.⁴ SSA conducted 2.6 million redeterminations in FY2014 and planned to meet that level in FY2015 and 2016. The Agency estimates that it will save \$4 for every \$1 spent on redeterminations over the next two years.

We have long encouraged SSA to review non-governmental databases and pursue data matches with other Federal agencies to improve SSI payment accuracy. SSA receives data from the IRS to verify income, and in 2011, the Agency completed the national rollout of the Access to Financial Institutions (AFI) initiative, which allows SSA to access financial institutions’ data to verify an applicant or recipient’s self-reported resources. SSA estimates that annual account verifications completed through AFI yield hundreds of millions of dollars in lifetime SSI program savings.

SSI recipients may also conceal non-liquid assets that affect eligibility, such as real property or vehicles. For example, we previously matched a sample of SSI recipient records against a real property database and estimated that about 320,000 recipients inaccurately reported to SSA that they did not own real property other than their primary residence, which led to improper payments of more than \$2.2 billion.⁵ SSA plans to expand its use of third-party databases to identify undisclosed real property in SSI initial claims and high-error profile redeterminations; the Agency is targeting implementation by FY2017.

⁴ SSA OIG, [The Social Security Administration’s Completion of Program Integrity Workloads](#), August 2014.

⁵ SSA OIG, [Supplemental Security Income Recipients with Unreported Real Property](#), June 2011.

We have also shown how SSA could employ data matches and install processes with other government agencies to reduce improper SSI payments.

- Our auditors worked with DoL to compare its Office of Workers' Compensation Programs data to SSA records. We identified Federal employees who received disability benefits in the same year they received Federal Employee's Compensation Act (FECA) payments, and we estimated \$43 million in improper payments to about 960 beneficiaries for whom SSA did not consider FECA payments in calculating their benefits.⁶
- After matching Department of Homeland Security travel data to SSA records, we estimated SSA made about \$152 million in overpayments to SSI recipients because of unreported absences from the United States between September 2009 and August 2011.⁷ SSI recipients are ineligible when outside the country for more than 30 consecutive days.
- As your Subcommittee knows, we recently reviewed SSA's removal or suspension of self-employment income (SEI) from its main earnings record and subsequent notifications to the IRS; some SSI recipients have reportedly claimed SEI on their tax returns to obtain an Earned Income Tax Credit (EITC), but have later disclaimed the SEI to SSA to prevent a reduction in their SSI payments. From 2008 through 2011, we found SSA suspended about \$400 million in SEI and did not notify the IRS of these actions; the Treasury Inspector General for Tax Administration reviewed a sample of these cases and verified that an individual claimed EITC in 77 percent of the cases when SSA suspended the person's SEI. These transactions likely involved improper EITC or Social Security payments; SSA agreed to notify the IRS in all cases where SSA removes SEI from a person's record.⁸

I mentioned the CUFF Act; other legislative proposals under consideration would also help combat SSI fraud and abuse. The IG community would benefit from exemptions to the CMPPA, which would exempt OIGs from obtaining a formal matching agreement before matching data with other entities to identify fraud and waste, and the *Paperwork Reduction Act* (PRA) for general investigations or audits. The requirements of both provisions unreasonably delay our audit and investigative efforts; the Oversight and Government Reform Committee has included IG exemptions to both the CMPPA and the PRA in the *Inspector General Empowerment Act*.

And your Subcommittee, again working in coordination with the Subcommittee on Social Security, recently introduced the *Disability Fraud Reduction and Unethical Deception (FRAUD) Prevention Act*, which would implement new and stronger penalties for individuals and claimant representatives who conspire to commit disability fraud.

⁶ SSA OIG, [*Federal Employees Receiving Both Federal Employees' Compensation Act and Disability Insurance Payments*](#), October 2010

⁷ SSA OIG, [*Usefulness of Department of Homeland Security Travel Data to Identify Supplemental Security Income Recipients Who Are Outside the United States*](#), February 2013.

⁸ SSA OIG, [*Self-employment Earnings Removed from the Master Earnings File*](#), January 2015.

Finally, SSA has reported to us that it is proposing to implement several new initiatives that we believe have the potential to improve SSI program integrity, such as

- conducting data matches with private databases to verify SSI recipients' wages and automatically adjust payment amounts;
- holding third-party facilitators liable for overpayments assessed against recipients who are later declared ineligible due to fraud; and
- using Customs and Border Protection data to prevent improper payments by identifying SSI recipients who travel outside the United States for more than 30 days but do not report it to SSA.

All of these initiatives are discussed in further detail in SSA's FY2016 budget request.

Conclusion

It is critical that SSA ensure that all SSI payments are correct and timely, because the individuals who qualify for SSI depend on those payments every day for basic necessities. It is equally important to protect the integrity of taxpayer dollars and ensure that only those who are eligible for SSI receive payments.

SSA and the OIG have done significant work to identify areas where the SSI program can be vulnerable to improper payments; with a focus on preventing payments to prisoners and fugitive felons, as mandated by current laws and the *Martinez* settlement and *Clark* court order.

Finally, my office continues to stress the importance of stewardship reviews like redeterminations—and as I have outlined, we have made many recommendations to the Agency specific to the non-medical factors that can affect SSI eligibility, with an emphasis on utilizing data matches and electronic public records.

We will continue to provide information about these issues to your Subcommittee and to Agency decision-makers. Thank you again for the invitation to testify, and I am happy to answer any questions.