

Audit Report

Title II Beneficiaries Receiving
Benefits Under the Lawful Presence
Payment Provisions

A-09-12-21288 / May 2014

OIG

Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

MEMORANDUM

Date: May 20, 2014 **Refer To:**

To: The Commissioner

From: Inspector General

Subject: Title II Beneficiaries Receiving Benefits Under the Lawful Presence Payment Provisions (A-09-12-21288)

The attached final report presents the results of our audit. Our objective was to assess the effectiveness of the Social Security Administration's controls to ensure it pays beneficiaries in accordance with the lawful presence payment provisions.

If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.



Patrick P. O'Carroll, Jr.

Attachment

Title II Beneficiaries Receiving Benefits Under the Lawful Presence Payment Provisions

A-09-12-21288



May 2014

Office of Audit Report Summary

Objective

To assess the effectiveness of the Social Security Administration's (SSA) controls to ensure it pays beneficiaries in accordance with the lawful presence payment provisions.

Background

The *Social Security Act* restricts the payment of Title II benefits to noncitizens in the United States. Any noncitizen applying for benefits must be lawfully present in the United States to receive benefits.

Under the lawful presence payment provisions, claimants must submit appropriate original documents issued by the Department of Homeland Security (DHS), such as the Alien Registration Receipt Card (I-551) or Arrival/Departure Record (I-94), documenting their lawful presence in the United States when they apply for benefits. SSA employees use DHS' online Systematic Alien Verification for Entitlements (SAVE) program to validate the claimant's lawful presence status before awarding benefits.

Finally, SSA policy requires that it maintain all supporting material pertinent to an individual's claim.

Our Findings

SSA needs to improve its controls to ensure it pays beneficiaries in accordance with the lawful presence payment provisions. SSA did not obtain or retain evidence of lawful U.S. presence for 16 (32 percent) of the 50 beneficiaries in our sample. We subsequently obtained evidence of lawful U.S. presence from 11 of the 16 beneficiaries. The remaining 5 (10 percent) did not provide evidence of their lawful U.S. presence. As a result, we could not confirm whether benefit payments totaling \$384,582 were proper. SSA had retained sufficient evidence of the remaining 34 beneficiaries' (68 percent) lawful presence in the United States.

Our Recommendations

We recommend that SSA:

1. Take appropriate action to determine whether the five beneficiaries identified by our audit are lawfully present in the United States and should be paid benefits.
2. Document evidence of lawful presence in the United States for the 16 beneficiaries identified by our audit.
3. Remind employees that they must retain evidence of lawful presence in the United States.

SSA agreed with our recommendations.

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ABBREVIATIONS

DHS	Department of Homeland Security
I-551	Alien Registration Receipt Card
I-94	Arrival/Departure Record
MBR	Master Beneficiary Record
OIG	Office of the Inspector General
SAVE	Systematic Alien Verification for Entitlements
SSA	Social Security Administration

OBJECTIVE

Our objective was to assess the effectiveness of the Social Security Administration's (SSA) controls to ensure it pays beneficiaries in accordance with the lawful presence payment provisions.

BACKGROUND

The lawful presence payment provisions of the *Social Security Act*¹ restrict the payment of Title II benefits to noncitizens in the United States. Any noncitizen applying for benefits after December 1, 1996 must be lawfully present in the United States to receive benefits.² Noncitizen beneficiaries must submit appropriate original documents issued by the Department of Homeland Security (DHS), such as the Alien Registration Receipt Card (I-551) or Arrival/Departure Record (I-94), documenting their lawful presence in the United States when they apply for benefits.³ In addition, SSA employees use DHS' online Systematic Alien Verification for Entitlements (SAVE) program⁴ to validate the claimant's lawful presence status before awarding benefits.⁵ Finally, SSA policy requires that it maintain all supporting material pertinent to an individual's claim, including evidence submitted to establish lawful presence in the United States.⁶

For our review, we identified 885,019 Title II beneficiaries in current pay who, according to the Numident and Master Beneficiary Record (MBR), were noncitizens who were lawfully present in the United States. From this population, we selected a random sample of 50 beneficiaries to determine whether SSA had adequate controls to ensure it retained documentation of their lawful U.S. presence (see Appendix A).

¹ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, Title IV, § 401, 110 Stat 2105, 2261; codified at 8 U.S.C. § 1611(b)(2); The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, Division C, Title V, Subtitle A, § 503(a), 110 Stat. 3009-546, 3009-671, inserted the lawful presence requirement specifically into the *Social Security Act*. See Section 202(y) of the *Social Security Act*, 42 U.S.C. § 402(y).

² SSA, POMS, RS 00204.010 (May 9, 2011).

³ SSA, POMS, RS 00204.025.B (August 20, 2012).

⁴ SAVE provides a way for Federal, State, and local government agencies to verify an applicant or recipient's immigration status. SSA is required to use SAVE to verify all DHS evidence of lawful alien status and certain evidence of U.S. citizenship.

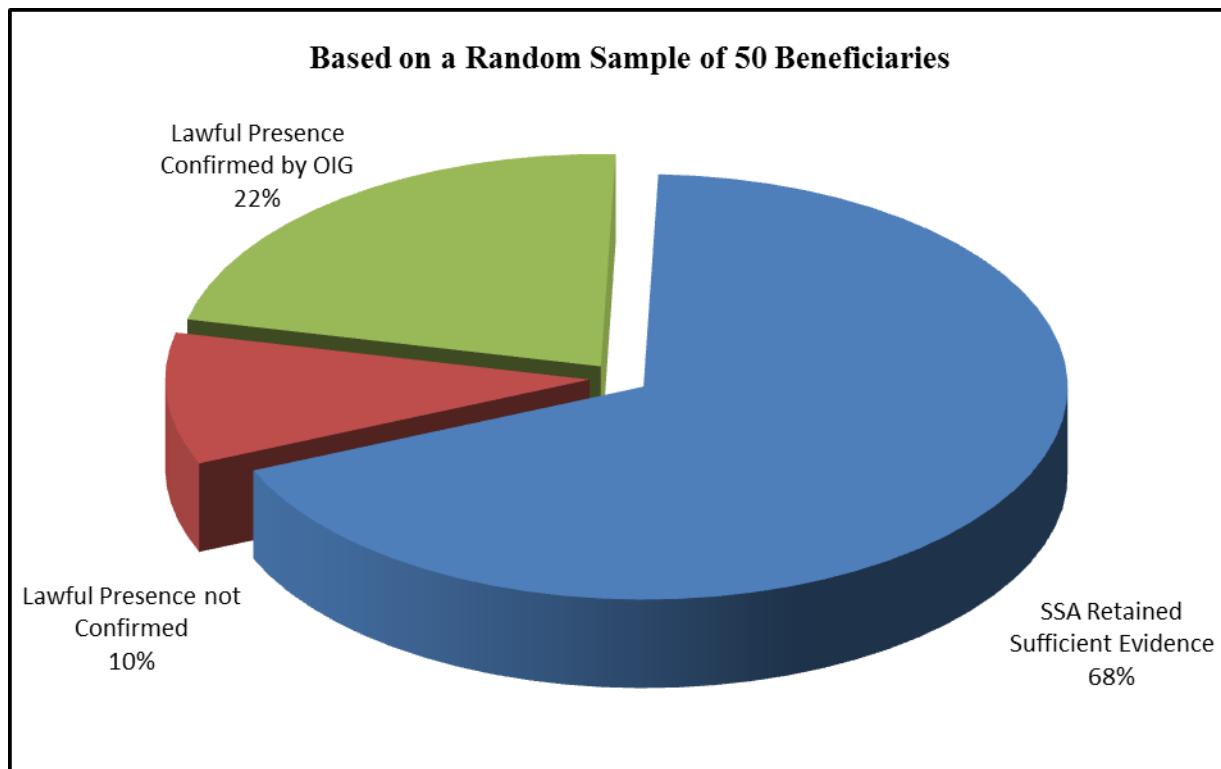
⁵ SSA, POMS, RS 00204.020.C.4 (February 7, 2012).

⁶ SSA, POMS, GN 00301.286 (August 9, 2013), GN 00303.440.C (February 22, 2012), GN 00301.285 (July 22, 2010).

RESULTS OF REVIEW

SSA needs to improve its controls to ensure it pays beneficiaries in accordance with the lawful presence payment provisions. SSA did not obtain or retain evidence of lawful U.S. presence for 16 (32 percent) of the 50 beneficiaries in our sample. We subsequently contacted 11 of these beneficiaries and obtained evidence of their lawful U.S. presence. The remaining 5 (10 percent) did not provide us evidence of their lawful U.S. presence.⁷ As a result, we could not confirm whether benefit payments totaling \$384,582 were proper. SSA had retained sufficient evidence of the remaining 34 beneficiaries' (68 percent) lawful U.S. presence (see Appendix B). The following chart summarizes the results of our review.

Figure 1: Evidence of Lawful U.S. Presence



⁷ One beneficiary died in March 2013.

SSA's Controls over Payments to Noncitizens

Under the lawful presence payment provisions, to pay benefits, SSA must have evidence in its records that establishes a beneficiary has been lawfully present in the United States for an entire calendar month.⁸ The evidence must sufficiently establish an audit trail, permit obtaining the document, and support the determination of lawful U.S. presence.⁹

When noncitizens apply for benefits, they must submit evidence to prove their lawful presence in the United States. The evidence submitted must be an acceptable immigration document that indicates their immigration status, such as the I-551. The evidence must be current and an original or certified copy from the issuing agency.

SSA employees then use SAVE to verify the authenticity and validity of the evidence with DHS.¹⁰ SSA employees must submit the following information to SAVE for verification:

- DHS document type,
- applicant's alien number,
- applicant's first and last name,
- applicant's date of birth, and
- type of benefit for which the applicant is applying.

SAVE assigns a verification number to each request it receives and provides SSA with the applicant's current immigration status for those requests it can verify. If SAVE does not verify the applicant's status, it will direct SSA to initiate additional verification procedures, such as submitting other names the applicant may have used and a copy of the original immigration document electronically or through the mail to DHS for manual verification.

SSA employees must re-verify the status of beneficiaries whose lawful presence status is conditional or temporary with DHS before their current authorized stay expires. These beneficiaries must provide evidence of an extension of their temporary lawful status or a change to permanent lawful status to continue receiving benefits.¹¹ SSA is required to suspend payments to beneficiaries who do not provide evidence of lawful presence.¹² Finally, SSA policy requires that its employees document the following evidence of lawful presence status: the DHS document type verified (for example I-551, I-94), the date of issuance, an annotation of "SAVE verified," and the verification number from the SAVE query response.

⁸ SSA, POMS, RS 00204.010.B.1 (May 9, 2011).

⁹ SSA POMS, GN 00301.286 (August 9, 2013), GN 00303.440.C (February 22, 2012), GN 00301.285 (July 22, 2010).

¹⁰ SSA, POMS, RS 00204.020.C (February 7, 2012).

¹¹ SSA, POMS, RS 00204.025 (August 20, 2012).

¹² SSA, POMS, RS 00204.010.B.4 (May 9, 2011).

SSA also has controls in place to prevent improper payments to beneficiaries who are not lawfully present in the United States. When SSA employees process an application for benefits, they must record on the MBR whether they are U.S. citizens or noncitizens who are lawfully present in the United States. Based on the citizenship and lawful presence data on the MBR, SSA's Title II system will determine whether it should pay current benefits and will suspend benefits for any months a noncitizen beneficiary is not lawfully present in the United States. In addition, the Title II system identifies and suspends payments to beneficiaries, who, according to the MBR, are not U.S. citizens or who are no longer lawfully present in the United States.¹³

Evidence of Beneficiaries' Lawful Presence in the United States

SSA had not obtained or retained sufficient evidence supporting whether 16 of the 50 beneficiaries in our sample were lawfully present in the United States. Although the MBR indicated that SSA had obtained evidence of their lawful presence, our review of SSA's records found that it had not obtained or retained a valid alien registration number, SAVE verification number, or copy of the original DHS document for these 16 beneficiaries. As a result, we could not verify with DHS whether these beneficiaries were lawfully present in the United States.

We subsequently contacted the beneficiaries, obtained the required evidence of lawful U.S. presence from 11 of the 16, and verified that evidence with DHS. The remaining five¹⁴ did not provide us evidence of their lawful U.S. presence. As a result, we could not confirm whether benefit payments totaling \$384,582 were proper.

For example, SSA paid a noncitizen beneficiary \$78,594 between December 2002 and December 2013. However, there was no evidence in SSA's records of her lawful presence in the United States. Specifically, there was no alien number, SAVE verification number, or copy of the DHS document. The beneficiary did not respond to our requests for evidence of lawful presence. As a result, we could not verify whether she was lawfully present in the United States.

CONCLUSION

SSA needs to improve its controls to ensure it pays beneficiaries in accordance with the lawful presence payment provisions. SSA did not obtain or retain evidence of lawful U.S. presence for 16 (32 percent) of the 50 beneficiaries in our sample. We subsequently obtained evidence of lawful U.S. presence from 11 of the 16 beneficiaries. The remaining 5 (10 percent) did not provide evidence of their lawful U.S. presence. As a result, we could not confirm whether benefit payments totaling \$384,582 were proper. For the remaining 34 beneficiaries (68 percent), SSA had retained sufficient evidence of their lawful presence in the United States (see Appendix B). After SSA has determined the status of the five remaining beneficiaries, we will determine whether additional audit work is warranted.

¹³ SSA, POMS, RS 00204.010 B.4 (May 9, 2011).

¹⁴ One beneficiary died in March 2013.

RECOMMENDATIONS

We recommend that SSA:

1. Take appropriate action to determine whether the five beneficiaries identified by our audit are lawfully present in the United States and should be paid benefits.
2. Document evidence of lawful presence in the United States for the 16 beneficiaries identified by our audit.
3. Remind employees that they must retain evidence of lawful presence in the United States.

AGENCY COMMENTS

SSA agreed with our recommendations. The Agency's comments are included in Appendix C.

APPENDICES

Appendix A – SCOPE AND METHODOLOGY

We obtained from the Social Security Administration's (SSA) Master Beneficiary Record (MBR) and Numident, a population of 885,019 Title II beneficiaries in current pay status, who, according to the Numident and MBR, were noncitizens living in the United States and whose lawful presence status had not expired as of March 2012. These beneficiaries filed for benefits on or after January 1, 2000. From this population, we selected a random sample of 50 beneficiaries for review.

To accomplish our objective, we

- reviewed the applicable sections of the Public Laws, the Code of Federal Regulations, the *Social Security Act*, and SSA's Program Operations Manual System;
- interviewed SSA employees from the San Francisco Regional Office and Office of Systems;
- reviewed a random sample of 50 beneficiaries who were in current pay and were noncitizens living in the United States according to the MBR and Numident;
- reviewed queries from SSA's MBR, Numident, Supplemental Security Record, Modernized Claims System, and Modernized Supplemental Security Income Claims System as well as the Shared Evidence Screen, Claims Folder Records Management System, Paperless System, and Paper Folders;
- verified the Department of Homeland Security online Systematic Alien Verification for Entitlements program to validate the claimant's lawful presence status when we are able to identify evidence of lawful presence for the beneficiaries;
- requested that SSA staff contact those beneficiaries in our sample whose lawful presence was not documented;
- sent letters and attempted to telephone beneficiaries to obtain evidence of their lawful presence in the United States; and
- determined the amount of unsupported payments made to the 16 beneficiaries for whom SSA did not have evidence of their lawful presence in the United States.

We determined whether the computer-processed data from the MBR and Numident were sufficiently reliable for our intended use. We tested the data to determine their completeness and accuracy. These tests allowed us to assess the reliability of the data and achieve our audit objective.

We conducted audit work in Richmond, California, and Baltimore, Maryland, between March 2013 and January 2014. The entities audited were the Offices of the Deputy Commissioners for Operations and Systems.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix B – SAMPLING METHODOLOGY AND RESULTS

From the Social Security Administration’s (SSA) Master Beneficiary Record (MBR) and Numident, we obtained a population of 885,019 Title II beneficiaries in current pay status, whom, according to the Numident and MBR, were noncitizens living in the United States whose lawful presence status had not expired as of March 2012. These beneficiaries filed for benefits on or after January 1, 2000. From this population, we selected a random sample of 50 beneficiaries for review.

For each of the 50 beneficiaries, we reviewed SSA records for evidence of lawful presence. We verified any identified evidence with the Department of Homeland Security’s (DHS) online Systematic Alien Verification for Entitlements (SAVE) program to validate the beneficiaries’ lawful presence. If evidence of lawful presence was missing from SSA’s records or invalid, we contacted the beneficiaries to obtain the evidence required to verify their immigration status.

SSA did not obtain or retain evidence of lawful U.S. presence for 16 beneficiaries whom it paid benefits totaling \$1,128,486. We subsequently confirmed that 11 beneficiaries who were paid benefits totaling \$743,904 were lawfully present in the United States, but we could not confirm lawful presence in the United States for 5 beneficiaries who were paid benefits totaling \$384,582 as of December 2013.

The following tables provide the details of our sample results.

Table B–1:Population and Sample Size

Description	Beneficiaries
Population Size	885,019
Sample Size	50

Table B–2: Evidence of Lawful Presence

Description	Beneficiaries	Benefits Paid
Lawful Presence Confirmed by OIG	11	\$743,904
Lawful Presence Not Confirmed	5	\$384,582
SSA Did not Obtain or Retain Evidence of Lawful Presence	16	\$1,128,486

Appendix C – AGENCY COMMENTS



SOCIAL SECURITY

MEMORANDUM

Date: April 28, 2014 Refer To: S1J-3

To: Patrick P. O'Carroll, Jr.
Inspector General

From: Katherine Thornton /s/
Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, "Title II Beneficiaries Receiving Benefits Under the Lawful Presence Payment Provisions" (A-09-12-21288) - INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Gary S. Hatcher at (410) 965-0680.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
"TITLE II BENEFICIARIES RECEIVING BENEFITS UNDER THE LAWFUL
PRESENCE PAYMENT PROVISIONS" (A-09-12-21288)**

Recommendation 1

Take appropriate action to determine whether the five beneficiaries identified by our audit are lawfully present in the United States and should be paid benefits.

Response

We agree. We will review the five beneficiaries and take appropriate action as soon as possible and no later than the end of fiscal year (FY) 2014.

Recommendation 2

Document evidence of lawful presence in the United States for the 16 beneficiaries identified by our audit.

Response

We agree. We will document the evidence of lawful presence for the 16 beneficiaries by the end of FY 2014.

Recommendation 3

Remind employees that they must retain evidence of lawful presence in the United States.

Response

We agree. As soon as possible and no later than the end of FY 2014, we will remind employees of the general procedures for documenting and retaining evidence, and specifically address lawful presence cases.

Appendix D – MAJOR CONTRIBUTORS

James J. Klein, Director, San Francisco Audit Division

Joseph Robleto, Audit Manager

Manfei Lau, Senior Auditor

Wilfred Wong, Audit Data Specialist

Alla Resman, IT Specialist

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