

Summary of Claimant Representative Fees Paid but Not Withheld from Title II Past-Due Benefits

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Social Security Administration Office of the Inspector General

Objective

To determine whether the Social Security Administration (SSA) withheld Title II representative fee payments from claimants' retroactive (past-due) benefits.

Background

To assist with obtaining Title II benefits, claimants may appoint a qualified representative (attorneys or non-attorneys) to act on their behalf in matters before SSA. Claimants may agree to compensate their representative for services provided to resolve the claim.

Generally, SSA calculates claimants' representative fees based on past-due benefits. Past-due benefits typically accrue from the claimant's benefit entitlement date through the month in which SSA certifies the claim for payment.

Our Findings

SSA did not always withhold representative fees from beneficiaries' past-due benefits. As such, SSA overpaid beneficiaries by the amount of the representative fees paid. For 26 (10.4 percent) of the 250 sampled representative payments tested, SSA did not withhold the attorney fees, totaling \$74,965, from the beneficiary's past-due benefits. We projected our sample results to the population and estimated SSA did not withhold 7,285 representative fee payments, totaling \$21 million, from the beneficiaries' past-due benefits.

Our Recommendations

SSA should:

1. Issue a reminder to staff processing Title II disability claims involving representative fee payments to take the necessary action(s), on the beneficiary's Title II record, to prompt SSA's system to withhold the representative fee from the past-due benefit payment.
2. Periodically assess Title II disability claims, with the characteristics identified in this audit, to ensure overpayments did not occur.

SSA agreed with the first recommendation and disagreed with the second. We asked that SSA reconsider its response to the second recommendation. Although SSA reviews Title II claims involving representative fee payments as part of its Transaction Accuracy Reviews, the last targeted review of these types of cases was over 4 years ago. Further, despite this review, our review found that representative payment errors occurred in about 10 percent of the cases we tested.