
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**THE ACCURACY OF THE GARNISHMENT OF
TITLE II BENEFITS BY THE
SOCIAL SECURITY ADMINISTRATION'S
COURT ORDERED GARNISHMENT SYSTEM**

January 2010

A-15-09-19063

AUDIT REPORT



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SOCIAL SECURITY

MEMORANDUM

Date: January 15, 2010

Refer To:

To: The Commissioner

From: Inspector General

Subject: The Accuracy of the Garnishment of Title II Benefits by the Social Security Administration's Court Ordered Garnishment System (A-15-09-19063)

OBJECTIVE

The objectives of our audit were to determine whether the Social Security Administration's (SSA) Court Ordered Garnishment System (COGS) accurately (1) calculates the allowable garnishment amount and (2) documents payment amounts to third parties and State child support enforcement agencies.

BACKGROUND

The Social Security Act

The *Social Security Act* (Act)¹ protects a beneficiary's right to receive Social Security benefits² directly and use them as he/she sees fit. Specifically, section 207³ indicates, in part, that no moneys paid or payable under Title II of the Act "...shall be subject to execution, levy, attachment, garnishment, or other legal process. . ." except by a provision of law that "... does so by express reference to this section." Section 459(a)⁴ contains a specific exception to section 207. Pursuant to this section, Title II benefits are subject to legal process⁵ brought by a State Agency or individual obligee to enforce

¹ Social Security Act § 207, 42 United States Code (U.S.C.) § 407 (applicable to Title XVI benefits pursuant to section 1631(d)(1) of the Act, 42 U.S.C. §1383(d)(1)).

² Social Security benefits include Old-Age, Survivors and Disability Insurance established under Title II and Supplemental Security Income established under Title XVI of the Act.

³ Social Security Act § 207, 42 U.S.C. § 407, *Assignment*.

⁴ Social Security Act § 459(a), 42 U.S.C. § 659(a), *Consent to Support Enforcement*.

⁵ SSA, Program Operations Manual System (POMS), GN 02410.001 B.4. defines garnishment as a type of legal process by which benefits are taken to pay a beneficiary's child support and/or alimony obligation to a third party.

the legal obligation of a Title II beneficiary to provide child support⁶ and/or make alimony⁷ payments. Title XVI payments are not subject to levies or garnishment. In 2008, SSA made approximately 607.2 million Title II benefit payments. Of the 607.2 million, SSA garnished 336,251 (less than 1 percent) benefit payments, totaling \$510 million.

Social Security Administration Garnishes Title II Benefits

Once a garnishment order is received, SSA's overall responsibility for processing a garnishment order is as follows.⁸

1. Review garnishment orders to determine whether to honor or reject⁹ them.
2. Notify the involved parties of SSA's determination.
3. Make necessary adjustments to its records.
4. Issue payments timely.

Before Court Ordered Garnishment System

Before COGS was established in March 2006, SSA established a garnishment policy where the court order was served at the local field office (FO) and forwarded to the jurisdictional processing center (PC) for manual processing. However, because there was no uniform method in the application of the policy, each PC had a different way of controlling garnishment cases based on the volume of garnishments received. This garnishment process had certain limitations as follows.

- PCs manually processed garnishment adjustments of Title II benefits.
- No distinct data were on the Master Beneficiary Record (MBR).
- Local programs controlled the repetitive payments.
- Notices were a manual process.

⁶ POMS, GN 02410.200 D., defines child support as periodic payment of funds for the support and maintenance of a child(ren) subject to, and in accordance with, State or local law.

⁷ POMS, GN 02410.200 E., defines alimony as periodic payment of funds for the support and maintenance of a spouse or former spouse subject to and in accordance with State or local law. It includes, but is not limited to, separate maintenance and spousal support.

⁸ POMS, GN 02410.210, indicates garnishment orders are reviewed to determine whether to honor or reject them, notify the involved parties of SSA's determination, make necessary adjustments to its records and issue payments timely. In addition, information was taken from a PowerPoint presentation on the Office of Retirement and Survivors Insurance Systems (ORSIS) website.

⁹ POMS, GN 02410.205 B., indicates that SSA would return a garnishment order to the court if it is delivered by a method not in accordance with the law of the state in which it is issued, and would return the order to the issuing entity if the order specifically names someone other than SSA (e.g., General Electric) as the "garnishee," "employer," "income payer", etc.

As a result, the Deputy Commissioner for Operations (DCO) requested that SSA's Office of Systems automate the garnishment process.

Court Ordered Garnishment System

Overview

COGS is a national system that automates withholding from beneficiaries in compliance with State- or court-ordered garnishment requests. COGS automated many of the manual tasks that were involved for the PCs, such as tracking payments and court orders via a local database; deducting the garnishment from the beneficiary's payment; issuing the payment to the court, child support agency, or ex-spouse; and sending the appropriate notice. COGS adjusts Title II benefits, issues payments to the appropriate payee as designated in the garnishment order, and issues appropriate notices to the garnished beneficiary and the court.¹⁰

Court Ordered Garnishment System Process

The manager (or designated representative) of any FO or PC can be served with legal process to enforce a legal obligation to provide child support and/or make alimony payments.¹¹ Processing garnishment orders is the primary responsibility of the FOs, while the PCs process garnishment orders served directly to them.¹²

The ZIP Code of the beneficiary determines where the garnishment should be established. Once a court order is received, a designated employee in the FO or PC inputs the garnishment order into COGS. There is no requirement for a second, independent review of the information input into COGS. Within 15 days of processing a garnishment order through the system, COGS automatically sends the appropriate garnishment notices to the beneficiary/payee and the court/agency. After the court-ordered garnishment is input into COGS, it is faxed into a document retrieval system. The paper copy is stored in the office for 120 days and then destroyed.

SSA's Office of Retirement and Survivors Insurance Systems (ORSIS) maintains COGS software through all stages of the life cycle: analysis, requirements, design, development, testing and validation, and implementation and maintenance. ORSIS compiles all court-ordered garnishment inputs into reporting spreadsheets, which are forwarded to the Division of Benefit Certification and Accounting (DBCA) for payment certification. Once payments are certified, they are sent to the Department of the

¹⁰ SSA's Modernized Systems Operations Manual - SPECPAYSYS 003.001.

¹¹ 42 U.S.C. §§ 659(b) & (c); 5 C.F.R. § 581.202(b); and SSA, POMS GN 02410.205 A.

¹² POMS, GN 02410.210 A., provides, in part, that processing garnishment orders is the primary responsibility of the FO. PCs process garnishment orders served directly to them and process COGS-related alerts and exceptions. If the order is served to an FO or PC other than the servicing FO or PC, the POMS instructs that the order not be forwarded to the servicing office.

Treasury (Treasury) to ensure accurate and timely issuance of garnishment benefit payments.

Conversion from Prior Garnishment System to the Court Ordered Garnishment System

On March 6, 2006, approximately 180,000 beneficiaries with garnishments were converted from the manual garnishment system to the automated COGS. These converted cases have a default start date in COGS of March 6, 2006. The garnishment amounts included in COGS were the previous amounts in the manual garnishment system. SSA did not recalculate these garnishments.

The beneficiaries with garnishments that were converted to COGS received a notice dated March 14, 2006, informing them about their current garnishment liability, the amount SSA withheld for garnishment, and the monthly payment amount they will receive.

RESULTS OF REVIEW

Based on our audit, we found that COGS accurately documented payment amounts to third parties and State child support enforcement agencies. The Office of Systems sends Treasury a batch file listing each payment record to be garnished. In addition, we verified the payment address listed on each court order and compared it to the payment address in COGS.

Our audit disclosed instances where incorrect amounts were being withheld. Also, we found that SSA did not maintain the court orders. To test COGS, we reviewed 65 court orders.¹³ A summary of our results is as follows.

Table 1 – Audit Results

Description	Total
Accurately Calculated Garnishment Amount	46
Inaccurately Calculated Garnishment Amount	5
Missing Court Orders ¹⁴	14
Total	65

¹³ Our sample was taken from a data extract from one segment of the MBR for the period October 1, 2007 through September 30, 2008. Our total population consisted of child support and alimony. The findings in our sample are all related to child support cases, which are processed by the field offices.

¹⁴ We were unable to locate 14 of the 65 court orders, 2 of which were associated with destroyed paper folders.

In reviewing the garnishment orders, we found that the Agency did not maintain 14 (22 percent) of 65 court orders. Also, we found that 5 (10 percent) of the remaining 51 resulted in incorrect amounts being withheld.

Inaccurately Calculated Garnishment Amounts

In reviewing the garnishment orders, we determined whether the COGS amount withheld was accurate in accordance with the court order and applicable State/Federal laws. We found that each State can have unique guidelines on how the State maximum is calculated. The State maximum is based on where the beneficiary resides. The court-ordered garnishment can be greater than the Title II amount, but the system will determine the lesser of the Federal or State maximum and the amount that should be withheld. The Federal maximum withholdings¹⁵ are as follows:

- 50 percent of disposable income if supporting a second family¹⁶, with no arrear or less than 12 weeks in arrears;
- 55 percent of disposable income if supporting a second family and owes more than 12 weeks in arrears;
- 60 percent of disposable income if single, with no arrears or less than 12 weeks in arrears; and
- 65 percent of disposable income if single and is more than 12 weeks in arrears.

See Appendix C for examples of garnishment calculations.

Based on our audit, 5 (10 percent) of 51 cases resulted in incorrect amounts being withheld. These five cases were child support garnishments. Based on these exceptions, we identified an overpayment of \$3,394 and an underpayment of \$1,774 in garnishment payments. In these cases, “overpayment” means the beneficiary was underpaid their Title II benefits, and the court-order recipient (that is, a child) was overpaid by the same amount. Also, “underpayment” means the beneficiary was overpaid their Title II benefits, and the court-order recipient (that is, a child) was underpaid by the same amount. In other words, the underpayment or overpayment of the beneficiary’s Title II benefits has the opposite effect on the court-ordered payment.

¹⁵ Administration for Children & Families Basic Guidelines for Federal Agencies on Child support Withholding http://www.acf.hhs.gov/programs/cse/newhire/employer/publication/opm_iw_guidance.htm.

¹⁶ A second family means there are other dependents, a spouse and/or child, for which the employee-parent has responsibility.

Table 2 – Summary of Underpayments and Overpayments

Case Number	Benefit Amount	Garnishment Amount Paid	Legal Allowable Amount	Overpayment to Child	Underpayment to Child
19	\$12,662.00	\$ 1,616.40	\$ 1,738.08	\$ 0.00	\$ 121.68
22	\$7,328.00	1,757.20	916.80	840.40	0.00
30	\$6,300.00	2,607.90	3,003.90	0.00	396.00
37	\$10,054.00	4,776.00	6,032.40	0.00	1,256.40
58	\$10,832.00	6,499.20	3,945.60	2,553.60	0.00
Total	\$47,176.00	\$17,256.70	\$15,636.78	\$3,394.00	\$1,774.08

Note: The amounts listed in the table are calculated using a 12-month period from October 1, 2007 through September 30, 2008.

We found that three court orders (case numbers 19, 37, and 58) were received before March 6, 2006 (conversion date to COGS). Therefore, the garnishment amounts included in COGS were the previous amounts included in the manual garnishment system. SSA did not recalculate these garnishments since many garnishment cases were old and the court orders were not maintained.

Case Number 19

The court order requested \$144.84 per month. We found that the monthly amount being deducted was \$134.70.¹⁷ Therefore, we estimate the court order amount at \$1,738.08 per year (approximately \$144.84 a month). The benefit amount for the year was \$12,662. Conversely, COGS deducted \$1,616.40 per year (approximately \$134.70 a month), which resulted in an underpayment to the child of \$121.68.

Case Number 22

The court order requested \$76.40 per month. The original garnishment order was established before COGS. A new amendment was sent from the courts on October 16, 2007 but was entered as a new case resulting in a duplicate garnishment, starting in November 2007. Therefore, over a 12-month period, COGS deducted \$1,757.20 when the deduction should have been \$916.80. The Agency reviewed our conclusion on this case and agreed to terminate the duplicate garnishment.

¹⁷ Effective December each year, beneficiaries usually receive a Cost-of-Living Allowance (COLA), which is an annual increase in Social Security benefits to offset the effects of inflation on fixed incomes. Therefore, two amounts were used to calculate the garnishment totals. The amount before the COLA (October 2007 through November 2007, or 2 months) and the amount after the COLA (December 2007 through September 2008, or 10 months).

Case Number 30

Two court orders were applicable in Fiscal Year 2008. The first court order, dated February 5, 2007, requested \$385 per month. The court order was amended on July 2, 2008.¹⁸ The amendment requested \$691.25 per month. The beneficiary resided in a State that followed the State law maximum for garnishments of 50 percent. As a result, we found that the maximum allowable garnishment amount was \$257.50 and \$263.50 per month.¹⁹ Therefore, we estimate the State law maximum amount was \$3,003.90 per year.²⁰ The benefit amount for the year was \$6,300. Conversely, COGS deducted \$2,607.90 per year (\$217.32 a month), which resulted in a \$396 underpayment to the child.

Case Number 37

The court order requested \$589.20 per month. The beneficiary resided in a State that followed the Federal law maximum for garnishments. As a result, the maximum allowable garnishment amount was \$493.20 and \$504.60 per month.²¹ Therefore, we estimate the Federal maximum amount at \$6,032.40 per year. The benefit amount for the year was \$10,054. Conversely, COGS deducted \$4,776 per year (\$398 per month), which resulted in a \$1,256.40 underpayment to the child.

Case Number 58

The court order requested \$328.80 per month. The beneficiary resided in a State that followed the Federal law maximum for garnishments. However, the court order amount is less than the Federal amount of \$531.60 and \$543.60 per month.²² Therefore, we estimate the court order amount at \$3,945.60 per year. The benefit amount for the year was \$10,832. Conversely, COGS deducted \$6,499.20 per year (\$531.60 and \$543.60 per month),²³ which resulted in an overpayment to the child of \$2,553.60.

¹⁸ According to the court order, the garnishment amount should have been \$691.25 but was annotated in pen for \$131.50. SSA could not determine why the change on the court order was made and whether the change was made by the court or an SSA employee.

¹⁹ See Footnote 17.

²⁰ In October 2007 the beneficiary had a \$14.40 Medicare arrearage deduction reducing the monthly payment to \$243.10. Also, in June 2008 the beneficiary had a \$131.70 overpayment deduction reducing the monthly payment to \$131.80.

²¹ See Footnote 17.

²² See Footnote 17.

²³ See Footnote 17.

Missing Garnishment Court Orders

In reviewing the garnishment orders, we found that the Agency did not maintain 14 (22 percent) of 65 court orders. Therefore, we were unable to verify the accuracy of these garnishment amounts.

These missing court orders are the result of several Agency policy changes to POMS (GN 02410.210) on maintaining the garnishment court orders. Before COGS was established on March 6, 2006, SSA required that PCs maintain the court orders while FOs only maintain a manual log of the court orders. Based on our audit, 7 of the 14 missing garnishment orders existed before COGS was established.

After March 6, 2006, the court orders were to be faxed to the PCs.²⁴ During the timeframe of our audit, SSA policy²⁵ directed that the entire garnishment court order be faxed into a document retrieval system (such as Electronic Disability claim filing record or Non-Disability Repository Evidentiary Document), stored in the office for 120 days, and then destroyed. Based on our audit, 7 of 14 missing garnishment orders were requested after COGS was established. Therefore, the FOs and PCs should have faxed the entire garnishment court order into a document retrieval system in accordance with POMS. The lack of supporting documentation may result in improper garnishment of Title II benefits.

CONCLUSION AND RECOMMENDATIONS

We found that 5 (8 percent) of 65 cases resulted in incorrect amounts being withheld. Also, SSA did not maintain the court orders in 14 (22 percent) of 65 cases. Therefore, we recommend that SSA:

1. Ensure the five garnishments in this report are corrected.
2. Remind staff to follow existing policies and procedures that require all new, amended, and terminated garnishment orders to be faxed into the document retrieval system for later access.

²⁴ POMS, GN 02410.210, May 19, 2006 to December 20, 2007, 6. After the Field Office completes the COGS input, complete this form and fax it along with a copy of the entire garnishment order for PRONGFILE-NO ACTION NECESSARY into the paperless fax number of the jurisdictional Processing Center.

²⁵ POMS, GN 02410.210 A.6. (Effective October 28, 2009, POMS was revised to remove the 120 days retention requirement, however for our audit timeframe this requirement was still applicable).

AGENCY COMMENTS

SSA agreed with the recommendations. The Agency's comments are included in Appendix D.

A handwritten signature in black ink, appearing to read "Patrick P. O'Carroll, Jr."

Patrick P. O'Carroll, Jr.

Appendices

[**APPENDIX A**](#) – Acronyms

[**APPENDIX B**](#) – Scope and Methodology

[**APPENDIX C**](#) – Examples of Garnishment Calculations

[**APPENDIX D**](#) – Agency Comments

[**APPENDIX E**](#) – OIG Contacts and Staff Acknowledgments

Appendix A

Acronyms

Act	<i>Social Security Act</i>
COGS	Court Ordered Garnishment System
COLA	Cost-of-Living Allowance
DBCA	Division of Benefit Certification and Accounting
DCO	Deputy Commissioner for Operations
FO	Field Office
MBR	Master Beneficiary Record
OIG	Office of the Inspector General
ORSIS	Office of Retirement and Survivors Insurance Systems
PC	Processing Center
POMS	Program Operations Manual System
SSA	Social Security Administration
Treasury	Department of the Treasury
U.S.C.	United States Code

Scope and Methodology

To accomplish our objective, we:

- Reviewed applicable State/Federal laws and regulations, pertinent parts of the Social Security Administration's (SSA) Program Operations Manual System, and other relevant criteria.
- Interviewed staff with the Office of Retirement and Survivors Insurance Systems and the Division of Benefit Certification and Accounting.
- Obtained a data extract from one segment (segment 14) of SSA's Master Beneficiary Record from October 1, 2007 through September 30, 2008. From this segment, 12,798 garnishments were identified as the sample population. Two sampling frames were identified.
 - Selected 65 court-order garnishments from these 2 sampling frames.
 - First sampling frame – 12,783 Garnishments: We randomly selected 50 of 12,783 court-order garnishments related to 12,783 individuals. Each garnishment represents one individual with a garnishment action against their record.
 - Second sampling frame – 15 Garnishments: We reviewed all 15 court-order garnishments related to 7 individuals. Each individual had multiple dependents (that is, spouse or child) listed on their record with a garnishment action(s).
 - Obtained the court-order garnishments for the two sample groups.
 - Obtained Court Ordered Garnishment System (COGS) data.
 - Compared court-order garnishment amounts to the COGS data to determine accuracy. Also, we compared the court-order garnishment payment address to the COGS payment address data to determine accuracy.
 - Visited one Baltimore field office to observe the input of the court-order garnishments into COGS.

We performed our audit at SSA Headquarters from September 2008 through July 2009. We found the data used for this audit were sufficiently reliable to meet our objectives. The entities audited were the Offices of Retirement and Survivors Insurance Systems and Public Services and Operations Support.

We conducted this 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 objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

Appendix C

Examples of Garnishment Calculations

Example A

A beneficiary's monthly Title II benefit is \$600, and the garnishment request is for \$500. The beneficiary lives in California, does not support another family, and is not past due on support payments. According to Federal law, the beneficiary's deduction should be 60 percent of his/her disposable income (monthly Title II benefit). However, California's State maximum garnishment amount is 50 percent of disposable income. Therefore, the Court Ordered Garnishment System (COGS) will apply the lesser of the two which is the State law and garnish \$300 ($\$600 \times 50\text{ percent}$) from the beneficiary's monthly Title II benefits. If the garnishment request was for \$200, COGS would use the same logic and apply the \$200 court order amount from the beneficiary's Title II benefits.

Example B

A beneficiary's monthly Title II benefit is \$500, and the garnishment request is for \$400. The beneficiary lives in Georgia and does not support another family, but owes more than 12 weeks of past due support. According to Federal law, the beneficiary's deduction should be 65 percent of his/her disposable income (monthly Title II benefit). The State of Georgia follows the Federal law. Therefore, COGS will apply the Federal law and garnish \$325 ($\$500 \times 65\text{ percent}$) from the beneficiary's monthly Title II benefits. If the garnishment request was for \$300, then COGS would apply the \$300 court order amount from the beneficiary's Title II benefits.

Appendix D

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: December 18, 2009 Refer To: S1J-3

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

From: Margaret J. Tittel //s//
Acting Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "The Accuracy of the Garnishment of Title II Benefits by the Social Security Administration's Court Ordered Garnishment System" (A-15-09-19063)--INFORMATION

Thank you for the opportunity to review and comment on the draft report. We appreciate OIG's efforts in conducting this review. Attached is our response to the report recommendations.

Please let me know if we can be of further assistance. Please direct staff inquiries to Candace Skurnik, Director, Audit Management and Liaison Staff, at (410) 965-4636.

Attachment

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, “THE ACCURACY OF THE GARNISHMENT OF TITLE II BENEFITS BY THE SOCIAL SECURITY ADMINISTRATION’S COURT ORDERED GARNISHMENT SYSTEM” (A-15-09-19063)

Our responses to the specific recommendations are provided below.

Recommendation 1

Ensure the five garnishments in this report are corrected.

Comment

We agree. We have already corrected the garnishments for the five cases that OIG identified.

Recommendation 2

Remind staff to follow existing policies and procedures that requires all new, amended, and terminated garnishment orders to be faxed into the document retrieval system for later access.

Comment

We agree. We will issue a reminder to staff to follow existing garnishment order policies and procedures.

[In addition to the information listed above, SSA also provided technical comments which have been addressed, where appropriate, in this report.]

Appendix E

OIG Contacts and Staff Acknowledgments

OIG Contacts

Victoria Vetter, Director, Financial Audit Division

Mark Meehan, Audit Manager

Acknowledgments

In addition to those named above:

Tonia Hill, Auditor-in-Charge

For additional copies of this report, please visit our web site at
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