

Office of the Inspector General

September 29, 1999

John R. Dyer
Principal Deputy Commissioner
of Social Security

Acting Inspector General

Identification of Beneficiaries Confined to Mental Health Institutions (A-01-99-61005)

Attached is a copy of the subject final report. The objective of our review was to determine whether the Social Security Administration is receiving all available information on Old-Age, Survivors, and Disability Insurance beneficiaries and/or Supplemental Security Income recipients who are confined to mental health institutions. The attached report presents the results of our survey of State agencies.

You may wish to comment on any further action taken or contemplated on our recommendations. If you choose to comment, please provide your comments within the next 60 days. If you wish to discuss the final report, please call me or have your staff contact Daniel R. Devlin, Acting Assistant Inspector General for Audit, at (410) 965-9700.

James G. Huse, Jr.

Attachment

**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**IDENTIFICATION OF
BENEFICIARIES CONFINED TO
MENTAL HEALTH INSTITUTIONS**

September 1999

A-01-99-61005

**EVALUATION
REPORT**



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OBJECTIVE

The objective of our review was to determine whether the Social Security Administration (SSA) is receiving all available information on Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries and/or Supplemental Security Income (SSI) recipients who are confined to mental health institutions.

BACKGROUND

Public Law (P. L.) 103-387 amended title II of the Social Security Act (Act) to prohibit OASDI benefit payments to certain categories of confined persons beyond those already prohibited from receiving benefits.¹ Specifically, section 202(x)(1)(A) of the Act states:

“ . . . no monthly benefits shall be paid . . . to any individual for any month during which such individual . . . is confined by court order in an institution at public expense in connection with:

- (I) a verdict or finding that the individual is guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year,
- (II) a verdict or finding that the individual is not guilty of such an offense by reason of insanity,
- (III) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

¹ The law was enacted on October 22, 1994 and was effective for benefits paid February 1995 or after.

- (IV) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence)."

The Act further states that any agency of any State ". . . shall make available to the Commissioner of Social Security, upon written request, the name and Social Security account number of any individual who is confined . . ." Also, section 1611(e)(1)(A) of the Act prohibits payment of SSI benefits to a recipient for ". . . any month if throughout such month he is an inmate of a public institution."

SSA issued procedures to its regional and field offices on March 1, 1996 advising them to obtain new matching agreements with States because of the provisions of P.L. 103-387 regarding individuals confined at public expense.

SCOPE AND METHODOLOGY

Between June 1998 and May 1999, we contacted mental health agencies in each State and the District of Columbia to determine whether SSA was receiving information about individuals held in such facilities. We asked officials if they provided the information about confined individuals to SSA. If the institution was not providing the information, we ascertained the number of individuals confined.

Additionally, to accomplish our objective, we:

- reviewed applicable Federal laws, regulations and program guidelines;
- interviewed SSA officials regarding the suspension of benefits to individuals confined for criminal findings involving insanity and the receipt of information from specific mental health institutions; and
- obtained a report from SSA summarizing the status of data agreements with mental health institutions for 24 States² and the District of Columbia as of May 1999.

We conducted our survey work in Boston, Massachusetts, between June 1998 and May 1999. We performed our work in accordance with the Quality Standards for Inspections issued by the President's Council on Integrity and Efficiency.

² Connecticut, New Hampshire, Vermont, Maine, Delaware, Maryland, Pennsylvania, West Virginia, Alabama, Florida, Kentucky, Mississippi, Illinois, New Mexico, Oklahoma, Louisiana, Nebraska, Iowa, Colorado, Montana, California, Idaho, Oregon, Washington.

RESULTS OF REVIEW

SSA is receiving most of the State information available for use in suspending OASDI and SSI benefits to individuals confined in mental health institutions. However, we identified 6 States that were not providing SSA with information for 407 individuals.

States With Data Not Provided to SSA	Number of Individuals Confined
Alabama	50
Alaska	6
Idaho	1
Iowa	3
Kentucky	25
Maryland	322
Total	407

Our survey of the 50 States and the District of Columbia found that:

- Forty-four States and the District of Columbia provide complete mental health institution inmate information to SSA.³
- Two States (Kentucky and Maryland) do not provide any information to SSA. These States house approximately 347 individuals in mental health institutions. SSA informed us that it is attempting to reach an agreement with Kentucky to obtain their information. However, no plans are underway to obtain Maryland's data. Maryland officials indicated that they are concerned about the confidentiality of the information SSA needs, but they are willing to discuss the matter further with SSA.
- Three States (Alabama, Idaho, and Iowa) provide partial information to SSA. Alabama is only providing inmate data from 3 of its 5 facilities; and the 2 facilities that are not reporting to SSA house approximately 50 individuals. One of the two facilities in Idaho, which is housing one individual, does not report its information to SSA. One of the four facilities in Iowa, housing three individuals, does not report its information to SSA. SSA officials stated they would follow up with these facilities.
- One State (Alaska) informed us that its law regarding insanity in a criminal offense was changed in 1983. Since 1983, individuals are no longer found "not guilty by reason of insanity" (NGRI), but are found "guilty but insane" and confined in prison. Since these individuals have been held in prison since the 1983 change in State law, SSA should be obtaining this information under its prisoner matching

³ We did not test SSA's processing of the data from the 44 States as part of this review to ensure that it was being used to identify and suspend benefit payments.

agreement with Alaska. However, we found that six individuals are currently confined in the Alaska Psychiatric Institute with a finding of NGRI stemming from a criminal offense prior to the 1983 change in State law.

The institute provided us with the names and Social Security numbers of these six individuals, and we found that one individual was receiving OASDI benefits. We forwarded this information to the Office of the Inspector General, Office of Investigations (OI). OI investigated the case and found that this individual has been confined to the Alaska Psychiatric Institute since March 12, 1982, after being found NGRI on a first degree assault charge. Through this entire period, this individual has been receiving OASDI disability benefits through a direct deposit bank account. However, he was not entitled to these benefits beginning in February 1995 when P.L. 103-387 took effect. OI notified SSA, and as a result, SSA terminated the benefits in November 1998. SSA determined that he was overpaid \$34,165. OI's projected cost savings for this case are \$47,208.⁴

RECOMMENDATION

We recommend that SSA secure the information needed from any State or facility that is not currently providing data, so that OASDI and/or SSI benefits can be suspended to individuals who are not entitled to receive them.

AGENCY COMMENTS

In response to our draft report, SSA agreed with our recommendation. (See Appendix A for the full text of SSA's comments to our draft report).

James G. Huse Jr.

⁴ OI calculated the savings by multiplying the individual's monthly payment of \$786.80 times 60 months (5 years) for a total of \$47,208.

APPENDICES

APPENDIX A

AGENCY COMMENTS

MAJOR CONTRIBUTORS TO THIS REPORT

Office of the Inspector General

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For additional copies of this report, please contact the Office of the Inspector General's Public Affairs Specialist at (410) 966-5998. Refer to Common Identification Number A-01-99-61005.

APPENDIX C

SSA ORGANIZATIONAL CHART
