
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**Disability Insurance Beneficiaries
Convicted of Crimes
Against the Social Security
Administration's Programs**

September 2007

A-06-06-16132

AUDIT REPORT



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SOCIAL SECURITY

MEMORANDUM

Date: September 24, 2007

Refer To:

To: The Commissioner

From: Inspector General

Subject: Disability Insurance Beneficiaries Convicted of Crimes Against the Social Security Administration's Programs (A-06-06-16132)

OBJECTIVE

Our objective was to examine the extent to which individuals receiving Disability Insurance benefits who were convicted of crimes against the Social Security Administration continued to receive benefits after being convicted and whether overpayments caused by these crimes were recovered.

BACKGROUND

The Social Security Administration (SSA) administers the Disability Insurance (DI) program which provides benefits based on disability. Most disability claims are initially processed through a network of Social Security field offices and State disability determination services (DDS). SSA field office staff obtains applications for disability benefits, disability report forms and authorization for disclosure of information forms. They also verify non-medical eligibility requirements, which may include age, employment, marital status or Social Security coverage information. After initial processing, the field office sends the case to a DDS to develop medical evidence and evaluate the disability.

Once SSA establishes that an individual is eligible for benefits under the DI program, the Agency turns its efforts toward ensuring the individual continues receiving benefits only as long as they continue to meet SSA's eligibility criteria. Section 221(i) of the *Social Security Act* requires a periodic continuing disability review (CDR) for disabled beneficiaries at least every 3 years except where a finding has been made that the disability is permanent.¹ The purpose of the CDR is to determine whether the individual's disability has improved since the most recent favorable determination.² A claimant who is dissatisfied with the initial determination on his/her claim may pursue reconsideration to receive a reexamination of the claim. If an individual disagrees with a

¹ Program Operations Manual System (POMS), DI 13004.005.

² POMS, DI 28001.001.

reconsideration or revised reconsideration determination, the next level of appeal is a hearing before an Administrative Law Judge (ALJ) of the Office of Disability Adjudication and Review (ODAR).

Fraud is an inherent risk in SSA's disability programs. One type of fraud is committed by individuals who feign or exaggerate symptoms to become eligible for disability benefits. Another involves individuals who fail to report medical improvements and/or return to work. The monitoring of medical improvement or return to work of DI beneficiaries to ensure those who are no longer disabled are removed from the disability program is one way that SSA employees can prevent potential violations.

RESULTS OF REVIEW

We identified 272 individuals who were convicted of criminal and civil acts against SSA's programs and were, or had been, receiving DI benefits during Fiscal Years (FY) 2003 through 2005. At the time of our audit, 96 of the 272 individuals were receiving monthly benefit payments after their convictions. Of these 96 beneficiaries, 81 received DI benefits and 15 received retirement benefits from SSA. We found no SSA policy that prohibits individuals convicted of crimes against SSA's programs from later receiving any and all benefits to which they are entitled.

Overpayments Related to the Convictions

Information available from the National Investigative Case Management System indicates that the amount of loss for the 272 cases totaled \$18.8 million.³ Individuals convicted of crimes against SSA that result in an overpayment are liable for repayment of the full amount of the overpayment. SSA is not supposed to waive such overpayments since the fraud conviction precludes a finding of "without fault." If benefit payments become due after the conviction, the benefits are to be withheld at the full monthly amount until the overpayment is recovered. However, if SSA inadvertently waives the overpayment, its policy states that it should not pursue further recovery efforts although it can accept voluntary payments.⁴

³ We did not verify the accuracy of the amounts reported in NICMS.

⁴ POMS, GN 02201.055.

**Overpayment
Recovery
Efforts**

By not withholding benefits at the full monthly amount, SSA was not effectively recovering \$1 million in outstanding debts owed by 40 of the 96 individuals currently receiving SSA benefits who were convicted of criminal and civil acts against SSA's programs. As shown in Table 1, SSA failed to withhold \$3,813 in monthly benefits paid to 4 individuals who improperly received \$72,414 in benefits.

Table 1: Individuals Currently Receiving Benefit Payments from SSA with No Ongoing Recovery of Overpayments

	Balance Owed as of June 2007	Monthly SSA Benefits Paid to the Individual	Monthly Amount Collected by SSA
1	49,409	898	0
2	13,932	1,339	0
3	7,318	775	0
4	1,755	801	0
Total	\$72,414	\$3,813	\$0

For the remaining 36 individuals collectively overpaid more than \$976,000 related to their convictions, SSA withheld only nominal⁵ amounts from monthly benefit payments, which total \$37,481 (See Appendix C). Two examples are provided below.

- One individual improperly paid \$28,947, currently receives \$1,067 per month from SSA. To satisfy this debt, SSA withholds only \$30 from each monthly payment. At this rate of collection, it will take about 78 years for SSA to recover the amount due.
- One individual improperly paid \$58,399, currently receives \$821 per month in SSA disability benefits. Although SSA withholds only \$75 per month from the benefit payment towards settling a previous overpayment of \$20,000, SSA has taken no action to withhold additional funds to recover the fraud loss. At the current rate of withholding, SSA will not recover these losses until around the year 2089.

The payment terms agreed to by SSA are so unfavorable that SSA will never fully recover the amounts owed from these individuals. SSA is authorized to withhold 100 percent of current benefit payments to recover amounts overpaid to these individuals related to their crimes.⁶ If SSA exercised this option against the 40 individuals discussed above, it could reduce the average time required to collect these debts from 244 months to 28 months.

⁵ SSA withholds an average of 17 percent from the current benefits paid to these individuals. The range of withholdings is a low of 1 percent and a high of 61 percent of monthly benefits. The median withholding percentage is 11 percent.

⁶ POMS, GN 02201.055.

**Fraud
Indicators**

SSA Policy provides that SSA should annotate the Master Beneficiary Record (MBR) with a Fraud Indicator and in the Special Message Field when fraud contributed to an overpayment.⁷ However, only 71 of the 96 records contained the required annotation on their respective MBRs of any fraudulent activity as shown in Table 2.

Table 2: Convicted And Receiving Benefits					
Type of Ongoing Benefit	Cessations	No Fraud Indicator	Other Fraud Indication	Disability Suspended for Work	Total
Retirement	12	2	0	1	15
Disability	29	23	20	9	81
Totals	41	25	20	10	96

Type of Crime

Of the 272 records we reviewed, 170 (62.5 percent) involved concealment of work or performance of significant physical and/or mental activities in work for pay. Another 34 involved exaggeration of symptoms to become eligible for disability benefits. Also, 24 concealed activities normally performed for pay. For a full list of the 272 cases, see Table 3.

⁷ POMS, GN 02201.050.

Table 3: Type of Crime	
Description	Number
Concealed Work Activity	170
Disability (Individual exaggerated symptoms)	34
Concealed Nonwork Activity	24
Representative Payee	21
Deceased Payee	6
Multiple Beneficiaries (Individual received overpayment on multiple beneficiary SSNs)	4
Fraudulent Application	4
Forge Treasury Checks	3
Theft/Misuse Government Property	1
Social Security Number Misuse/Illegal Alien	1
Social Security Number Misuse – Work	1
Identity Theft – Employment	1
False Identity	1
Assault/Harassment	1
TOTAL	272

**Evidence of
Continued Work**

We reviewed earnings information for the 96 individuals and identified 17 who earned wages in FY 2006 also received disability benefits at the time of our audit. Five of the 17 individuals had significant earnings in FY 2006, indicating they were working and may no longer be eligible for disability benefits.

SSA has a control in place to compare employer-reported earnings to beneficiary data files. Beneficiaries are required to report their income that may affect eligibility. If SSA finds that an employer reported wages that the recipient did not report, it generates an alert that is sent to an SSA program service center or field office. SSA field office staff

should investigate the beneficiary's possible return to work. If the beneficiary has completed a trial work period and is working, SSA should conduct a work CDR to determine if the disability has ceased due to work activity and, if the disability has ceased, stop benefit payments as appropriate.⁸

If a disability beneficiary is performing work after the trial work period and the work is determined to be substantial gainful activity (SGA), SSA should find that the individual's disability has ceased, regardless of the individual's medical condition, age, education or work experience. Substantial gainful activity is the performance of significant physical and/or mental activities in work for pay or profit, or in work of a type generally performed for pay or profit, regardless of the legality of the work. In 2007, the dollar threshold for SGA was established as an average of \$900 or more per month (\$1,500 or more per month if blind).⁹

Type of Disability

SSA's definition of disability¹⁰ requires that an individual's inability to work be related to a medically determinable physical or mental impairment(s), and every physical or mental impairment is categorized into 1 of 16 body systems. The reviewing physician/examiner team is responsible for the diagnosis and its accuracy.¹¹ Among the 272 cases we reviewed, the 5 most common types of disabilities represented by the convictions are shown in Table 4.

Level of Approval

Of the 272 convictions we reviewed, 216 claims were approved at the DDS level and 56 were approved by ALJs at ODAR. Of the 216 approved by a DDS, 122 had been selected for CDRs and their benefits continued after the CDR.

Table 4: Convictions by Type of Disability

Disability	Number
Disorders of the Back	58
Affective Disorders	40
Osteoarthritis	16
Chronic Ischemic Heart Disease	11
Anxiety Related Disorders	10

⁸ We audited SSA's process for identifying disabled beneficiaries who needed a work CDR. See SSA, OIG *Disabled Title II Beneficiaries with Earnings Reported on the Master Earnings File* (A-01-03-13019), issued July 12, 2004. In 2008, we will follow-up on our prior audit.

⁹ POMS, DI 10501.015.

¹⁰ SSA defines disability, in part, as the inability to perform substantial work activity due to a physical or mental impairment. See 42 U.S.C. § 416(i)(1) and 423 (d)(1).

¹¹ POMS, DI 26510.015.F

CONCLUSION AND RECOMMENDATIONS

We identified 272 individuals who were approved for DI benefits and subsequently convicted for various crimes against SSA's programs during Fiscal Years 2003 through 2005. At the time of our audit, 96 of these individuals continued to receive benefit payments after their convictions. SSA was not effectively recovering \$1 million in overpayments owed by 40 of these 96 individuals. In addition, only 71 of the 96 records contained the required annotation on their respective MBRs of any fraudulent activity. Also, earnings information for the 96 individuals who were receiving benefits at the time of our audit revealed that 17 had earnings in FY 2006, indicating they were working and may no longer be eligible for disability benefits.

We recommend that SSA:

1. Enhance overpayment collections in the cases we identified where monthly benefits are not being withheld at the full monthly amount until the overpayment is recovered.
2. Remind staff to annotate the MBR with special message and fraud indicator when recording an overpayment related to a conviction.
3. Evaluate current income verification procedures and review the claims associated with the 17 individuals who are receiving benefits and had recent earnings. Any potentially fraudulent cases should be referred to the OIG Office of Investigations.

AGENCY COMMENTS

SSA agreed with our recommendations and provided technical comments that we incorporated into the final report. The Agency's comments are included in Appendix D.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Overpayment Recovery Schedule

APPENDIX D – Agency Comments

APPENDIX E – OIG Contacts and Staff Acknowledgements

Appendix A

Acronyms

ALJ	Administrative Law Judge
CDR	Continuing Disability Review
DDS	Disability Determination Service
DI	Disability Insurance
FY	Fiscal Year
MBR	Master Beneficiary Record
ODAR	Office of Disability Adjudication and Review
POMS	Program Operations Manual System
SGA	Substantial Gainful Activity
SSA	Social Security Administration

Scope and Methodology

To accomplish our objective, we analyzed Office of Investigations data for individuals who were approved for Disability Insurance (DI) benefits and later convicted of fraud against the Social Security Administration's (SSA) programs. In conducting our audit, we:

- Obtained data concerning all SSA fraud cases for Fiscal Years 2003 through 2005 from the National Investigate Case Management System. We reviewed a nationwide report to identify 272 DI beneficiaries convicted and sentenced for crimes against SSA's programs during this period.
- Obtained queries for each individual from the Disability Determination Service and Office of Disability Adjudication and Review systems.
- Reviewed laws and regulations related to the disability review process.
- Determined that 96 of the 272 beneficiaries were receiving benefit payments at the time of our audit.
- Reviewed earnings records for the DI beneficiaries receiving benefits at the time of our audit.
- Obtained and reviewed Master Beneficiary Records for individuals receiving benefits at the time of our audit to determine whether
 - fraud indicators had been recorded,
 - overpayments had been recorded, and
 - the amount recovered as of June 2007.

We performed our work in Baltimore, Maryland and Dallas, Texas. The entity audited was SSA's field staff under the Deputy Commissioner for Operations. Our review was conducted from March to June 2006 and January to June 2007 in accordance with generally accepted government auditing standards.

Appendix C

Overpayment Recovery Schedule

	Amount to be Recovered	Balance Owed as of June 2007	Monthly Benefit Amount	Amount Withheld by SSA	Percentage of Current Benefit Withheld	Months Required to Pay Debt at Current Rate	Years Required to Pay Debt at Current Rate
1	\$99,999	\$89,084	\$823	\$500	60.75	178	15
2	87,962	84,466	693	64	9.24	1320	110
3	91,332	67,708	1,340	133	9.89	511	43
4	97,797	65,143	1,771	200	11.29	326	27
5	58,399	58,399	821	75	9.14	779	65
6	56,499	50,516	833	200	24.02	253	21
7	42,564	42,564	1,733	150	8.66	284	24
8	44,356	41,759	902	100	11.09	418	35
9	57,399	37,963	956	500	52.30	76	6
10	59,268	35,237	1,331	250	18.78	141	12
11	83,306	33,898	890	100	11.24	339	28
12	33,369	32,169	885	100	11.30	322	27
13	41,679	31,005	979	100	10.21	310	26
14	28,947	28,187	1,067	30	2.81	940	78
15	46,223	27,449	1,538	400	26.01	69	6
16	33,788	26,917	984	200	20.33	135	11
	11,237	11,237			This individual had overpayments associated with 2 separate fraud convictions. SSA is currently collecting on the first overpayment of \$33,788.		
17	38,259	22,734	1,047	50	4.78	455	38
18	28,997	20,792	1,236	100	8.09	208	17
19	24,265	19,555	487	100	20.53	196	16
20	21,125	17,425	1,042	100	9.60	174	15
21	91,974	15,991	1,750	800	45.71	20	2
22	19,633	15,826	1,327	100	7.54	158	13
23	16,474	13,633	1,049	368	35.08	37	3
24	16,666	12,835	738	150	20.33	86	7
25	80,242	12,488	909	489	53.80	26	2
26	22,909	10,734	657	100	15.22	107	9
27	9,486	8,986	1,364	100	7.33	90	7
28	37,884	8,314	1,038	235	22.64	35	3
29	9,443	6,836	450	50	11.11	137	11
30	8,724	6,790	637	50	7.85	136	11
31	19,639	5,639	1,208	400	33.11	14	1
32	16,614	5,000	1,078	50	4.64	100	8
33	36,560	4,015	1,127	50	4.44	80	7
34	2,961	2,286	657	15	2.28	152	13
35	38,167	1,755	1,397	10	0.72	176	15
36	2,665	1,265	737	100	13.57	13	1
	1,516,811	976,600	37,481	6,519	17.39	150	12

Note: Items in bold are discussed as examples in the body of the report.

Appendix D

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: September 7, 2007

Refer To: S1J-3

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

From: Larry W. Dye /s/

Subject: Office of the Inspector General (OIG) Draft Report, "Disability Insurance Beneficiaries Convicted of Crimes Against the Social Security Administration's Programs" (A-06-06-16132)—INFORMATION

We appreciate OIG's efforts in conducting this review. Our comments on the recommendations are attached.

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

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, “DISABILITY INSURANCE BENEFICIARIES CONVICTED OF CRIMES AGAINST THE SOCIAL SECURITY ADMINISTRATION’S PROGRAMS”
(A-06-06-16132)

Thank you for the opportunity to review and provide comments on this draft report. As part of our commitment to protect our programs through superior stewardship, we strive to meet our objective to detect and prevent fraudulent and improper payments and improve debt management. As described in Recommendation 3, while we have implemented some automated procedures to address convictions for fraudulent concealment of work activity, based on the results of this review, we will continue to evaluate and develop further enhancements in this regard. Our responses to the specific recommendations are as follows:

Recommendation 1

The Social Security Administration (SSA) should enhance overpayment collections in the cases OIG identified where monthly benefits are not being withheld at the full monthly amount until the overpayment is recovered.

Comment

We agree. We will review the individual cases where full withholding of the overpayment is not taking place and determine the appropriate action to take. Regarding the findings for partial withholding, Program and Operations Manual System (POMS) policy, GN 02201.055, Overpayment Recovery after Fraud Conviction, states that full withholding is required from any payable SSA benefits unless exceptions apply. However, current operating policy in that POMS section also states that “even though SSA regulations prohibit partial withholding in fraud cases, if the court orders partial withholding, SSA must honor the order.”

Recommendation 2

SSA should remind staff to annotate the Master Beneficiary Record (MBR) with a special message and fraud indicator when recording an overpayment related to a conviction.

Comment

We agree. A reminder will be issued by the end of September 2007.

Recommendation 3

SSA should evaluate current income verification procedures and review the claims associated with the 17 individuals who are receiving benefits and had recent earnings. Any potentially fraudulent cases should be referred to the OIG Office of Investigations.

Comment

We agree. We have received a listing of the 17 cases and will review those cases to determine what actions we have already taken regarding the posted work, and what additional action(s) should be taken. The report should note that we currently have an automated procedure in place that addresses convictions for fraudulent concealment of work activity in the Trial Work Period (TWP). Specifically, the Disability Control File is updated to reflect fraud and an update is sent to the MBR to suspend benefits, using a fraud Reason for Suspension or Termination code for the TWP months involved. This suspension results in the posting of payments as an overpayment. Other systems used to control work issues in field offices or eWork, have also been modified to support this enhancement. If we determine that additional controls are needed with regard to fraud or verification of earnings, we will work to determine improvements and what role automation can play in the process. We will refer any potentially fraudulent cases identified to the OIG Office of Investigations.

Appendix E

OIG Contacts and Staff Acknowledgments

OIG Contacts

Rona Lawson, Director, (410) 965-8071

Ron Gunia, Audit Manager, (214) 767-6620

Acknowledgments

In addition to those named above:

Erica Turon, Program Analyst

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