

*Audit Report*

Supplemental Security Income  
Overpayments Resulting from the  
Goldberg-Kelly Procedures



## MEMORANDUM

**Date:** June 12, 2017 **Refer To:**

**To:** The Commissioner

**From:** Acting Inspector General

**Subject:** Supplemental Security Income Overpayments Resulting from the Goldberg-Kelly Procedures  
(A-01-14-34091)

The attached final report presents the results of the Office of Audit's review. The objective was to quantify the Supplemental Security Income overpayments the Social Security Administration assessed because of the Goldberg-Kelly procedures.

If you wish to discuss the final report, please call me or have your staff contact Rona Lawson, Assistant Inspector General for Audit, 410-965-9700.

A handwritten signature in black ink that reads "Gale Stallworth Stone".

Gale Stallworth Stone

Attachment

# Supplemental Security Income Overpayments Resulting from the Goldberg-Kelly Procedures

## A-01-14-34091



June 2017

Office of Audit Report Summary

### Objective

To quantify the Supplemental Security Income (SSI) overpayments the Social Security Administration (SSA) assessed because of the Goldberg-Kelly procedures.

### Background

To afford due process required by the 1970 U.S. Supreme Court decision, *Goldberg v. Kelly*, SSA provides (a) written advance notice to an SSI recipient about stopping or reducing an SSI payment based on a non-medical factor and (b) the opportunity to appeal that decision within 10 days of receiving the notice before it can effectuate the decision.

If SSA does not mail the notice at least 15 days before the following month (SSA allows 5 days for mail time), it cannot change the payment for the following month and must assess an overpayment for that month.

To process adverse actions, staff should use the Modernized SSI Claims System (MSSICS) whenever possible since this System is designed to force them to select the appropriate advance notice. There are three types of advance notices: automated, online, and manual. The automated notices take longer to mail than the other notices.

### Findings

From 1 segment of the Supplemental Security Record, we identified 4,893 recipients who had a Goldberg-Kelly indicator in Calendar Year (CY) 2014. Of those, we selected a random sample of 275 recipients. We estimated that, in CY 2014, SSA assessed \$21.5 million in overpayments for 66,540 recipients because of the Goldberg-Kelly procedures. However, we found that SSA could have avoided approximately

- \$4.2 million in overpayments for 13,160 of these recipients had staff applied the Goldberg-Kelly procedures correctly. Specifically, either staff did not provide (a) the appropriate advance notice when the adverse action took place in MSSICS or (b) a manual notice and calculate the payment changes when the adverse action took place outside MSSICS.
- \$9.2 million in overpayments for 22,780 of these recipients if it did not take 7 days to mail the automated notices that were generated from the automated processes for the adverse actions.

SSA could *not* have avoided the remaining \$8.1 million in overpayments because it had to provide sufficient advance notice to the recipients before it adjusted their SSI payments.

We had similar results in our CY 2016 random sample of 50 recipients from a population of 3,166.

### Recommendations

We recommended SSA:

1. Determine whether it is cost-effective to identify and correct the issue with MSSICS to ensure staff provides the appropriate advance notice.
2. Evaluate the feasibility of having automated notices processed in less than 7 days when the current print contracts expire.

SSA agreed with the recommendations.

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## **ABBREVIATIONS**

C.F.R.	Code of Federal Regulations
CY	Calendar Year
MSSICS	Modernized Supplemental Security Income Claims System
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
OMB	Office of Management and Budget
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income
SSR	Supplemental Security Record
U.S.C.	United States Code

## OBJECTIVE

Our objective was to quantify the Supplemental Security Income (SSI) overpayments the Social Security Administration (SSA) assessed because of the Goldberg-Kelly procedures.

## BACKGROUND

### SSI Eligibility and Goldberg-Kelly Procedures

Under the SSI program, SSA makes monthly payments to financially needy individuals who are aged, blind, or disabled.<sup>1</sup> Individuals who receive these payments are responsible for reporting any changes in medical (if applicable) and non-medical (such as income, resources, or living arrangement) factors that may affect their SSI payments.<sup>2</sup>

According to the 1970 U.S. Supreme Court decision, *Goldberg v. Kelly*,<sup>3</sup> all individuals who are receiving needs-based benefits from public agencies and who have adverse actions pending, should be afforded due-process rights. Subsequent court decisions<sup>4</sup> made it clear that these individuals included SSI recipients. From these court decisions, SSA developed its Goldberg-Kelly procedures. According to these procedures, when a change in a non-medical factor leads to an adverse action, which results in stopping or reducing a recipient's SSI payments, SSA must provide the recipient with due process rights in the form of a written notice about this decision and the opportunity to appeal within 10 days of receiving the notice before effectuating it. Furthermore, if the recipient timely requests an appeal, SSA may not effectuate the decision until the appeal is completed—even though the recipient may no longer qualify for the payments he/she is receiving.<sup>5</sup>

Therefore, if SSA does not hand-deliver the notice at least 10 days before or mail the notice at least 15 days before the following month (allowing 5 days for mail time), it cannot change the payment for the following month and must assess an overpayment for that month. Also, if the recipient timely requests an appeal, and loses that appeal, SSA must assess an overpayment for the unreduced payments provided while the appeal was pending. Since both types of

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<sup>1</sup> *Social Security Act*, 42 U.S.C. § 1382.

<sup>2</sup> 20 C.F.R. § 416.708 (2007). See Appendix A for a list of the non-medical factors that should be reported to SSA.

<sup>3</sup> *Goldberg*, Commissioner of Social Services of the City of New York v. Kelly et al., 397 U.S. 254 (1970).

<sup>4</sup> *Cardinale v. Mathews*, 399 F. Supp. 1163 (D.D.C. 1975).

<sup>5</sup> The recipient may also appeal the decision between 10 and 60 days from receipt of the notice and may make subsequent appeals at higher levels of administrative review within certain timeframes, but SSA can effectuate the decision and adjust the payments while these appeals are pending. In general, there are three levels of administrative review: (1) reconsideration, (2) hearing, and (3) Appeals Council review. SSA, *POMS, SI-Supplemental Security Income*, ch. SI 040, subch. SI 04005.010 (September 9, 2011) and SI 04005.012, sec. A (November 28, 2014). Also see 20 C.F.R. § 416.1337 (2000), 416.1404 (2007), 416.1413 (1986), 416.1413(b) (1986), and 416.1413(c) (1986).

overpayments are unavoidable, SSA does not consider them improper based on guidance it received from the Office of Management and Budget (see Appendix B). Therefore, SSA does not include these overpayments in the annual improper payment rate it reports in its *Agency Financial Report* under the *Improper Payments Elimination and Recovery Improvement Act of 2012*.<sup>6</sup>

SSA has its staff use different methods to process an adverse action.<sup>7</sup> Generally, during the

- first week of the month, staff should enter the change into an SSI system and let it generate an automated notice, which is printed in a central location by a vendor with whom SSA has a contract.<sup>8</sup> These notices are dated 7 calendar days after the entries to account for the time it takes to print, sort, and mail them. This leaves sufficient time in the month for the recipient to receive the notice and make a timely appeal. As a result, the system will adjust the following month's payment, and no overpayment will occur unless the recipient timely appeals SSA's decision and the decision is upheld on appeal.
- second and third weeks of the month (which SSA refers to as the Goldberg-Kelly temporary period),<sup>9</sup> staff should enter the change in its Modernized SSI Claims System (MSSICS), which is designed to force them to select an online or manual notice that can be immediately generated in their office and mailed or handed to the recipient if there is sufficient time to adjust the following month's payment.<sup>10</sup> As a result, an overpayment will not occur unless the recipient timely appeals SSA's decision and the decision is upheld on appeal.
- last week of the month, staff should enter the change into an SSI system and let it generate and mail the automated notice. This action will affect the payment in the month after next and create an overpayment for the next month's payment. Since SSI payments are generally paid on the first of the month, there is not sufficient time to adjust the next month's payment.

If staff cannot enter the change into MSSICS *and* must prepare a manual notice, which happens under limited circumstances, they must calculate the payment amount, enter it along with other information into another system, and issue a manual notice to the recipient.

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<sup>6</sup>According to the *Improper Payments Information Act of 2002* (Pub. L. No. 107-300; 116 Stat. 2350), as amended by the *Improper Payments Elimination and Recovery Act of 2010* (Pub. L. No. 111-204; 124 Stat. 2224), and the *Improper Payments Elimination and Recovery Improvement Act of 2012* (Pub. L. No. 112-248; 126 Stat. 2390), SSA is required to report on improper payments. See Appendix B for more information on the overpayments SSA does not include in its improper payment rate based on OMB's guidance.

<sup>7</sup> SSA, *POMS, SI-Supplemental Security Income*, ch. SI 023, subch. SI 02301.301, sec. C (October 14, 2004).

<sup>8</sup> SSA has multiple contracts in place to print various types of notices and other written communications. The Agency procures these contracts through the Government Printing Office, which solicits bids and awards them to the lowest responsive, responsible bidder.

<sup>9</sup> SSA publishes a monthly calendar for staff to identify the Goldberg-Kelly temporary periods.

<sup>10</sup> Whenever possible, staff should select the online notice since the system generates it on their printer. However, sometimes, staff must select the manual notice, which the system does not generate so they must prepare it themselves.

SSA also has automated processes that enter certain changes at any point in time in the month. These entries result in automated notices. Like the aforementioned automated notices, these are dated 7 calendar days after the entries to allow for printing, sorting, and mailing from a vendor.

### *Illustration of the How the Goldberg-Kelly Procedures Result in Overpayments that SSA Cannot Avoid*

A recipient was receiving \$445 a month in SSI payments in 2014. She called SSA on June 16, 2014 to report her work activity. SSA processed the information that day and sent a notice of planned action to the recipient, stating it was reducing her payments because of her wages. Because 15 days from June 16<sup>th</sup> would have been July 1<sup>st</sup>—counting 5 days mail time and 10 days to allow for appeal—it was too late for SSA to change the July SSI payment. Therefore, SSA had to post a \$71 overpayment to her record. If the recipient had come into the office instead of calling, SSA could have handed her the notice and avoided the July overpayment because 10 days would have been June 26<sup>th</sup>. Similarly, if the recipient had called just 1 day earlier in the month (on June 15<sup>th</sup>), SSA could have mailed the notice and avoided the July overpayment because 15 days would have been June 30<sup>th</sup>. In all three scenarios, if the SSI recipient appealed SSA’s decision to adjust her payment amount, then SSA may need to continue to pay the \$445 a month in SSI until the appeal is completed (instead of the monthly payment that the recipient should have received as a result of her work activity). Then, if the SSI recipient loses the appeal, the continued monthly SSI payments would become overpayments.<sup>11</sup>

## Methodology

To conduct our review, from 1 segment of the Supplemental Security Record (SSR),<sup>12</sup> we identified 4,893 cases that had a Goldberg-Kelly indicator in Calendar Year (CY) 2014 and a pay status other than death. We randomly selected 275 of these cases for review. We also identified, from 1 segment of the SSR, 3,166 cases that had a Goldberg-Kelly indicator in the first 6 months of CY 2016 and a pay status other than death. We randomly selected 50 of these cases for review. For each case, we reviewed SSRs, relevant information in MSSICS, and notices SSA sent the recipients.<sup>13</sup> See Appendix C for more information on our scope and methodology.

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<sup>11</sup> The illustration is based on one of the sample cases we reviewed. However, we altered the dates and simplified the information to easily demonstrate how the date of a non-medical factor (such as an increase in wages) and the type of notice SSA provides to the recipient can determine whether an overpayment can be prevented under the Goldberg-Kelly Supreme Court decision.

<sup>12</sup> SSA assigns Social Security numbers randomly. Social Security numbers can be categorized into 20 segments, each containing 5 sequential groups of these digits. Each segment represents all 20 segments.

<sup>13</sup> Since we could not determine whether SSA hand-delivered any notices, we assumed all the notices were mailed.

## RESULTS OF REVIEW

We estimated that, in CY 2014, SSA assessed \$21.5 million in overpayments for 66,540 recipients because of the Goldberg-Kelly procedures. However, we found that SSA could have avoided approximately

- \$4.2 million for 13,160 of these recipients had staff applied the Goldberg-Kelly procedures correctly. Specifically, either staff did not provide (a) the appropriate advance notice when the adverse action took place in MSSICS or (b) a manual notice *and* calculate the payment changes when the adverse action took place outside MSSICS.
- \$9.2 million for 22,780 of these recipients if it did not take 7 days to mail the notices its automated processes generated.<sup>14</sup>

The remaining \$8.1 million in overpayments could *not* have been avoided because SSA had to provide sufficient advance notice to the recipients before it adjusted their SSI payments.

Also, of the \$21.5 million in Goldberg-Kelly overpayments in CY 2014, we estimated SSA had recovered \$12.6 million and waived or cancelled \$2.5 million as of May 2016. We also had similar results in our CY 2016 random sample of 50 recipients (see Table C-10 in Appendix C).

## Sample Results

Of the 275 sample cases that had a Goldberg-Kelly indicator in CY 2014, there were

- 187 cases that had \$60,316 in overpayments.<sup>15</sup> Of these 187 cases, there were
  - 37 where SSA could have avoided \$11,841 of the \$60,316 in overpayments had staff correctly applied the Goldberg-Kelly procedures;<sup>16</sup>
  - 64 where SSA could have avoided \$25,766 if it did not take 7 days to mail the automated notices that its automated processes generated;<sup>17</sup> and
  - 86 where SSA could not avoid \$22,709 of the \$60,316 in overpayments.
- 88 cases that had no overpayments. In many of these cases, SSA reversed the adverse actions. For example, in April 2014, an SSA employee sent a recipient a notice stating her payments would be suspended in June because she had not furnished information the

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<sup>14</sup> In these cases, there were transactions that took place during the Goldberg-Kelly temporary period and at least 15 days before the following month.

<sup>15</sup> The average overpayment SSA assessed was \$323, ranging from \$0.05 to \$932, and a median of \$248.

<sup>16</sup> In 3 of these 37 cases, there were also \$150 in unavoidable overpayments. While we only counted these three cases in this bullet, we placed these dollars in the appropriate bullet in this section.

<sup>17</sup> In 1 of the 64 cases, there was also \$55 in an unavoidable overpayment. While we only counted this case in this bullet, we placed these dollars in the appropriate bullet in this section.

employee had requested earlier. SSA gave her Goldberg-Kelly protection for the May payment to allow her time to appeal the decision. The recipient provided the required information in June 2014. Since that information did not cause her SSI payment amount to change, SSA restarted her payments and removed the overpayment.<sup>18</sup>

### *Overpayments Because SSA Staff Applied Goldberg-Kelly Incorrectly*

In 37 of the 187 cases that had overpayments, staff did not correctly apply the Goldberg-Kelly procedures. Of these 37 cases, there were

- 18 where staff did not provide the appropriate advance notice when the adverse action took place in MSSICS. During our review, SSA informed us that it did not know how this could have happened since MSSICS is supposed to force staff to select the appropriate notice.
- 19 where staff did not provide a manual advance notice *and* calculate the payment changes when the adverse action took place outside MSSICS.

Had staff correctly applied the Goldberg-Kelly procedures, SSA could have avoided \$11,841 in overpayments.<sup>19</sup>

For example, a recipient's earnings increased, which reduced her SSI payments effective December 2014. An SSA employee entered the change in MSSICS on November 13, 2014 and provided an automated notice, which was mailed 7 days later on November 20, 2014. Because Goldberg-Kelly procedures require 15 days for a mailed notice, SSA could not reduce the SSI payment for December and therefore assessed a \$209 overpayment.<sup>20</sup> However, the SSA employee could have prepared and mailed an online notice on November 13, 2014 because this date was within the Goldberg-Kelly temporary period. As a result, SSA could have avoided the \$209 overpayment.<sup>21</sup>

### *Overpayments Because of Automated Processes Used*

In 64 of the 187 cases, SSA relied on its automated processes for the adverse actions, per its operating guidelines.<sup>22</sup> These processes generated automated advance notices (which are dated 7 days after the transaction is processed to allow for printing, sorting, and mailing from a vendor). Had it not taken 7 days to mail these automated notices, there could have been

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<sup>18</sup> See Table D–1 in Appendix D for a summary of these 275 cases by region.

<sup>19</sup> The average overpayment SSA could have avoided was \$320, ranging from \$7 to \$932, and a median of \$125.

<sup>20</sup> November 20 plus 15 days was December 5. Therefore, SSA did not have sufficient time to change the December SSI payment.

<sup>21</sup> November 13 plus 15 days was November 28. Therefore, the recipient would have received the notice before the December SSI payment.

<sup>22</sup> During our review, SSA informed us of these guidelines.

sufficient time to change the following month's payment and avoid \$25,766 in overpayments.<sup>23</sup> However, SSA did not consider these overpayments avoidable since they were processed in accordance with its guidelines.

In 56 of the 64 cases, SSA's Benefit Records Interface automatically adjusted the SSI payment to reflect Old-Age, Survivors and Disability Insurance (OASDI) benefit changes.<sup>24</sup> (The Benefit Records Interface is a daily exchange of information between the OASDI and SSI systems.) For the remaining eight cases, the SSI Mobile Wage Reporting system or SSI Telephone Wage Reporting system automatically adjusted the SSI payment to reflect wages the recipients reported.<sup>25</sup>

For example, an SSI recipient applied for OASDI benefits, and an SSA employee processed the allowance decision on December 12, 2013. On that same day, SSA's Benefit Records Interface posted the OASDI benefit amount to the recipient's SSI payment record, which reduced the recipient's SSI payments effective January 2014. This resulted in an automated advance notice that was mailed 7 days later on December 19, 2013. Since this left insufficient time to change the following month's SSI payment, SSA assessed a \$311 overpayment for that month. SSA does not consider this an avoidable overpayment since it was processed through SSA's automated systems, not by staff. However, the Agency could have avoided the overpayment if its print contract for automated notices allowed it to mail the notice 3 days sooner, on December 16, 2013, (instead of taking the full 7 days) or if the SSA employee who processed the OASDI benefits intervened in the automated process and prepared and mailed an online or manual notice in less than 7 days.<sup>26</sup>

We asked SSA if it could reduce the number of days it took to mail the automated notices. The Agency said it would have to reroute the automated notices from the print contractors to staff at the local SSA offices. This would require that the Agency re-negotiate with the contractors or re-bid new contracts for these notices. It would also require that staff mail these notices immediately to avoid the overpayments. However, only an estimated 22,780 (0.007 percent) of the approximate 350 million notices SSA generates annually resulted from the automated processes that caused the avoidable overpayments. Also, these changes may not be cost-effective and may cause the staff to fall behind on their other workloads, such as interviewing claimants filing for benefits.

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<sup>23</sup> The average overpayment SSA could have avoided was \$403, ranging from \$0.05 to \$721, and a median of \$394. According to SSA, the online or manual notice option is *only* available to staff because it requires a manual input.

<sup>24</sup> SSA administers the OASDI program under the *Social Security Act*, 42 U.S.C. §401. The 56 recipients in the sample were receiving OASDI benefits and SSI payments. OASDI benefits count as income in determining SSI payment amounts.

<sup>25</sup> The SSI Mobile Wage Reporting and the SSI Telephone Wage Reporting systems allow recipients to report wages to SSA directly from a mobile device or telephone, respectively. SSA's systems take the wage reports and automatically post them to the SSR, adjust the payments if needed, and issue the notices to the recipients.

<sup>26</sup> December 16, 2013 is within the Goldberg-Kelly temporary period and at least 15 days before the following month.

If staff were to intervene in the automated processes and prepare and mail an online or manual notice, this may also cause them to fall behind on their other workloads. However, we found that staff was involved in adjusting or collecting the majority of the overpayments, which they would not have had to do had the overpayments not occurred. Also, in some of the cases, staff processed the OASDI benefits, but let the Benefit Records Interface automatically enter the OASDI benefits into the SSI system and adjust the SSI payments.

### ***Unavoidable Overpayments***

In the remaining 86 of the 187 cases with overpayments, SSA staff could *not* have avoided \$22,709 in overpayments because they could not have provided the advance notices in time to change the following month's payments. For example, in one case, the recipient reported a change of address, which reduced his SSI payments effective August 2014. An SSA employee entered the change in the SSI system on July 18, 2014, let the system produce and mail the notice, and assessed a \$714 overpayment for August. This was the correct action because it was too late to change the August payment.<sup>27</sup>

### ***All Overpayments***

In all 187 cases that had overpayments, the overpayment period was 1 month, and none of the overpayments occurred while an appeal was pending. As of May 2016, SSA had recovered \$35,290 and waived or cancelled \$7,043 of the \$60,316 in overpayments. In most of these cases, the change leading to the adverse action was an increase in the recipients' income. Table 1 shows the changes for the 187 cases.

**Table 1: Changes Leading to Adverse Actions in Sample Cases with Overpayments**

Nature of Change	Number of Cases
Excess Income	145
Living Arrangement	32
Excess Resources	5
Failure to Provide Information	3
Marital Status	2
<b>Total</b>	<b>187</b>

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<sup>27</sup> July 18, 2014 plus 15 days to mail the notice to the recipient was August 2, 2014. Therefore, SSA did not have sufficient time to change the August SSI payment.

## *SSA's Efforts to Improve Goldberg-Kelly Application*

According to SSA, Goldberg-Kelly cases have been error-prone for over 20 years.<sup>28</sup> To rectify the situation, SSA developed an in-depth study guide on the Goldberg-Kelly process in 1998 and updated it in 2015. In addition, between September 2014 and September 2015, SSA provided training on the process.

To determine whether the training had improved SSA's application of Goldberg-Kelly, we identified 3,166 cases that had a Goldberg-Kelly indicator in the first 6 months of CY 2016. We then randomly selected 50 of these cases and conducted the same analysis we conducted for the CY 2014 sample cases.

Of the 50 sample cases with a Goldberg-Kelly indicator in CY 2016, there were 35 cases with \$10,650 in overpayments.<sup>29</sup> Of these 35 cases, there were 7 where SSA incorrectly applied Goldberg-Kelly procedures. As in the CY 2014 sample cases, either staff did not provide (a) the appropriate advance notice when the adverse action took place in MSSICS or (b) a manual notice and calculate the payment changes when the adverse action took place outside MSSICS. Had staff correctly applied the procedures, SSA would have avoided \$497 of the \$10,650 in overpayments.<sup>30</sup>

In comparing the two samples, it appeared that SSA was applying Goldberg-Kelly more often after the training. There were 4,893 (408 per month, on average) records with Goldberg-Kelly indicators for 12 months in CY 2014, while there were 3,166 (528 per month, on average) for the first 6 months of CY 2016. In the sample of 50 cases in CY 2016, 34 recipients were overpaid for 1 month, and 1 recipient was overpaid \$14,420 for 20 months while he appealed the adverse action, which he lost.<sup>31</sup>

Table 2 shows the percent of sampled recipients that had overpayments, and the average overpayment amounts were similar between the years. Table 3 shows the percent of recipients who had overpayments SSA could have avoided had it applied the Goldberg-Kelly procedures correctly was similar between CYs 2014 and 2016, while the average overpayment decreased in CY 2016.<sup>32</sup> Table 4 shows the percent of recipients who had overpayments SSA could have

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<sup>28</sup> SSA, Goldberg-Kelly Guide issued January 1998 and updated August 2015, p. 3. SSA, Kansas City Region, training material titled *Processing SSI Non-Medical PE Recons with Goldberg Kelly (GK) Payment Continuation*, 2016, 4<sup>th</sup> slide.

<sup>29</sup> The average overpayment SSA assessed was \$304, ranging from \$10 to \$733, and a median of \$141. Of the 35 cases with overpayments (from the sample of 50), 7 had overpayments that SSA could have avoided had staff worked the cases properly, 14 had overpayments that could have been avoided had SSA staff—instead of the Agency's automation tools—handled the cases and issued an online or manual notice to the recipients, and 14 cases had overpayments that SSA could not have avoided. See Table D-2 in Appendix D.

<sup>30</sup> The average overpayment SSA could have avoided was \$71, ranging from \$10 to \$264, and a median of \$32.

<sup>31</sup> For the \$10,650 overpaid in 2016, we counted only the first month overpaid (\$721) for the recipient who appealed the adverse action so the total and average would be comparable to our 2014 sample results.

<sup>32</sup> See tables in Appendix D for a summary of the CYs 2014 and 2016 samples by region.

avoided had it not used its automation tools increased, while the average overpayment decreased in CY 2016; however, SSA's training would not have prevented these overpayments. Had SSA provided online or manual notices for the recipients' cases that were handled through its automated processes (and not handled by staff), SSA could have avoided the overpayments. However, SSA did not consider these overpayments avoidable since they were processed in accordance with its guidelines.

**Table 2: Goldberg-Kelly Overpayments in CY 2014 and 2016 Samples**

	Population	Sample	Overpayments		
			Recipients	Total	Average
CY 2014 (12 months)	4,893	275	187 (68%)	\$60,316	\$323
CY 2016 <sup>33</sup> (first 6 months)	3,166	50	35 (70%)	\$10,650	\$304

**Table 3: Goldberg-Kelly Overpayments in CY 2014 and 2016 Samples Because Staff Applied Procedures Incorrectly**

	Population	Sample	Overpayments		
			Recipients	Total	Average
CY 2014 (12 months)	4,893	275	37 (13%)	\$11,841	\$320
CY 2016 (first 6 months)	3,166	50	7 (14%)	\$497	\$71

**Table 4: Goldberg-Kelly Overpayments in CY 2014 and 2016 Samples Because of Automated Processes Used**

	Population	Sample	Overpayments		
			Recipients	Total	Average
CY 2014 (12 months)	4,893	275	64 (23%)	\$25,766	\$403
CY 2016 (first 6 months)	3,166	50	14 (28%)	\$4,719	\$337

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<sup>33</sup> For this table, we counted only the first month overpaid (\$721) for the recipient who appealed the adverse action so it would not skew the average.

## CONCLUSIONS

We estimated that, in CY 2014, SSA assessed \$21.5 million in overpayments for 66,540 recipients because of the Goldberg-Kelly procedures. However, we found that SSA could have avoided approximately

- \$4.2 million in overpayments for 13,160 of these recipients had staff applied the Goldberg-Kelly procedures correctly. Specifically, either staff did not provide (a) the appropriate advance notice when the adverse action took place in MSSICS or (b) a manual notice *and* calculate the payment changes when the adverse action took place outside MSSICS.
- \$9.2 million in overpayments for 22,780 of these recipients if it did not take 7 days to mail the notices that the automated processes generated. According to SSA, to reduce the 7-day mail time for the automated notices, the print contract for these notices would have to be re-negotiated/re-bid and staff would have to mail these notices immediately to avoid the overpayments. This may not be cost-effective and may cause staff to fall behind on other workloads.

The remaining \$8.1 million (of the \$21.5 million) in overpayments could *not* have been avoided because SSA had to provide sufficient advance notice to the recipients prior to adjusting their SSI payments. We had similar results in our CY 2016 random sample of 50 recipients.

## RECOMMENDATIONS

We recommend SSA:

1. Determine whether it is cost-effective to identify and correct the issue with MSSICS to ensure staff provides the appropriate advance notice.
2. Evaluate the feasibility of having automated notices processed in less than 7 days when the current print contracts expire.

SSA agreed with the recommendations; see Appendix E.



Rona Lawson  
Assistant Inspector General for Audit

# *APPENDICES*

## **Appendix A – SUPPLEMENTAL SECURITY INCOME NON-MEDICAL ELIGIBILITY FACTORS**

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The following non-medical factors may impact a Supplemental Security Income recipient's eligibility or monthly payment amount.<sup>1</sup>

- If the recipient moves or changes his/her address.
- If someone moves into or out of the recipient's household.
- If the recipient starts or stops working.
- If there is a change in the recipient's income or the income of family members.
- If there is a change in the recipient's resources.
- If the recipient gets help with living expenses.
- If the recipient enters or leaves an institution (hospital, nursing home, prison).
- If the recipient gets married, separated, or divorced.
- If the recipient becomes a parent.
- If the recipient leaves the United States.
- If the recipient has an outstanding warrant for his/her arrest.
- If the recipient is confined to a correctional facility.
- If the recipient violates a condition of parole or probation.
- If the recipient is a sponsored noncitizen.
- If the recipient is age 18 to 22 and starts or stops attending school.
- If the recipient's immigration status changes.

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<sup>1</sup> SSA, Publication No. 05-11011, *What You Need to Know When You Get Supplemental Security Income (SSI)*, May 2013.

## **Appendix B – OVERPAYMENTS NOT INCLUDED IN THE SOCIAL SECURITY ADMINISTRATION’S IMPROPER PAYMENT RATE**

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Table B–1 identifies the types of Social Security Administration (SSA) overpayments the Office of Management and Budget (OMB) classified as unavoidable or avoidable.<sup>1</sup>

- Unavoidable - Payments resulting from legal or policy requirements. These payments are not considered improper and are not included in SSA’s annual improper payment estimate.
- Avoidable - Payments that should be reflected in the improper payment estimate because they could be reduced through changes in administrative actions.

**Table B–1: OMB Classification of SSA Overpayments**

Payment Type	Description of Payment	OMB Classification
Payments following a cessation of eligibility due to a continuing disability review	When SSA is required by law to make payments during the appeals process, these payments are not erroneous.	Unavoidable
Payments made under the Goldberg-Kelly due-process Supreme Court decision	<b>When due process requires that Supplemental Security Income (SSI) payments continue, although the Agency has determined that a payment reduction or termination is in order, such payments are not erroneous.</b>	Unavoidable
Payments made incorrectly because of program design	The law requires that SSI payments be made on the first of the month based on projected income for that particular month. <sup>2</sup> Changes in the recipient’s status can occur during the month, which causes the recipient’s eligibility to change. Because SSA cannot prevent the overpayment, this situation should not be reflected in the Agency’s erroneous payment rate.	Unavoidable

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<sup>1</sup> After the *Improper Payment Information Act of 2002* (Pub. L. No. 107- 300; 116 Stat. 2350) was enacted, we discussed with SSA what should be included in its improper payment estimate. We believed all overpayments should be included; however, SSA believed only overpayments that it could prevent should be included. Therefore, we developed a list (described in Table B–1)—in conjunction with SSA—of the overpayments we thought should be included in the improper payment rate but with which SSA disagreed and we had a meeting with OMB. On August 1, 2003, OMB provided its decision—agreeing with SSA—that the Agency did not need to include unavoidable overpayments when estimating the amount of improper payments in its programs.

<sup>2</sup> 20 C.F.R. § 416.502 (1999) and SSA, *POMS, SI-Supplemental Security Income*, ch. SI 020, subch. SI 02001.005, sec. A.1. (June 14, 2011).

Payment Type	Description of Payment	OMB Classification
Payments issued after death	Dollars released after death (either electronically or as a paper check) that are reclaimed by the Department of the Treasury or returned unendorsed should not be reflected in the Agency's erroneous payment rate. Conversely, payments made after death that are improperly cashed or withdrawn and subject to overpayment recovery should be reported.	Unavoidable except for fraud or misuse
Non-receipt of payment	Duplicate payments issued in accordance with the Robinson-Reyf Court decision are unavoidable and should not be reflected in the Agency's reports on erroneous payments. <sup>3</sup> The only exception is duplicates incorrectly sent to abusers.	Unavoidable except for fraud or misuse
Payments based on medical eligibility	Payments are not erroneous if they are the result of a medical improvement review standard or a situation where the beneficiary would have been ineligible had the law permitted retroactive ineligibility.	Should not be included in the erroneous payment estimate
Payments made for Title II beneficiaries based on earnings estimates	When program design requires that the Agency make payments based on estimated earnings, these payments should not be considered erroneous.	Unavoidable
Undetected error	The Agency should not reflect undetected errors in its erroneous payment rate unless it has evidence a specific type of erroneous payment was made.	Should not be included in the erroneous payment estimate
Duplicate payments to attorneys, vendors, and employees	Agency systems do not capture when the overpayment occurs; however, this type of error does not meet the reporting threshold.	Avoidable

<sup>3</sup> SSA, *POMS, GN-General*, ch. GN 024, subch. GN 02406.002 (March 28, 2000).

## **Appendix C – SCOPE, METHODOLOGY, AND SAMPLE RESULTS**

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To accomplish our review, we:

- Reviewed applicable sections of the *Social Security Act* and the Social Security Administration's (SSA) regulations, rules, policies, and procedures.
- Reviewed applicable sections of the *Improper Payments Information Act of 2002*, *Improper Payments Elimination and Recovery Act of 2010*, and *Improper Payments Elimination and Recovery Improvement Act of 2012*.
- Reviewed Office of Management and Budget guidance provided to SSA on items to include in calculating an improper payment rate.
- Reviewed the U.S. Supreme Court decision in *Goldberg v. Kelly*.
- Reviewed prior Office of the Inspector General reports.
- Identified 4,893 cases with a Goldberg-Kelly indicator in Calendar Year (CY) 2014 and a pay status other than death from 1 segment of the Supplemental Security Record (SSR).<sup>1</sup> We randomly selected 275 of these cases. For each sample case, we
  - reviewed post-entitlement claims and the Workload Management System Supplemental Security Income Case Data query, as appropriate, in the Modernized Supplemental Security Income Claims System (MSSICS), SSRs, and notices from the Online Retrieval System;
  - quantified the number of months and amount overpaid because of the Goldberg-Kelly procedures;<sup>2</sup>
  - determined the nature of the changes leading to the adverse actions protected by Goldberg-Kelly;<sup>3</sup> and

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<sup>1</sup> SSA assigns Social Security numbers randomly. Social Security numbers can be categorized into 20 segments, each containing 5 sequential groups of these digits. Each segment is representative of all 20 segments.

<sup>2</sup> We did not include overpayments SSA removed when it reversed the adverse actions that created the overpayments.

<sup>3</sup> An adverse action is an action that results in stopping or reducing a recipient's Supplemental Security Income (SSI) payments.

- determined whether SSA correctly applied the Goldberg-Kelly procedures.<sup>4</sup> If the case did not involve an appeal, we generally counted 15 days from the day SSA *could* have mailed the notice to the recipient—which is the day SSA processed the adverse action in its systems. If the 15<sup>th</sup> day was
  - ✓ in the following month and an overpayment was assessed for that month, we concluded SSA applied the procedures correctly or
  - ✓ before the following month and SSA assessed an overpayment for that month, we determined whether the adverse action occurred in the Goldberg-Kelly temporary period.<sup>5</sup>
    - If the adverse action occurred in the Goldberg-Kelly temporary period and an employee processed the action, we concluded SSA applied the procedures incorrectly. When this happened, we also determined whether the action took place in MSSICS.<sup>6</sup> When we identified cases where the actions took place in MSSICS, we met with SSA to determine how staff could have applied the procedures incorrectly in these cases since the system is designed to prevent this from happening.
    - If the adverse action occurred in the Goldberg-Kelly temporary period and the Benefit Records Interface, SSI Mobile Wage Reporting system, or SSI Telephone Wage Reporting system processed the action, we concluded SSA applied the procedures correctly.<sup>7</sup> When this happened, we also determined whether an SSA employee (1) processed the OASDI benefits before the interface adjusted the SSI payments for concurrent beneficiaries and (2) was involved in adjusting or collecting the overpayment.

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<sup>4</sup> Under Goldberg-Kelly, SSA must provide written advance notice to an SSI recipient about reducing or stopping his/her payments for non-medical reasons (such as change in income) and the opportunity to request an appeal on this decision within 10 days of the notice date before effectuating it. If the recipient timely requests an appeal, SSA may not effectuate the decision until completing the appeal—even though the recipient may no longer qualify for the payments he/she is receiving. Therefore, if SSA does not hand-deliver the notice at least 10 days before, or mail the notice at least 15 days before, the following month (SSA allows 5 days for mail time), SSA cannot change the payment for the following month and must assess an overpayment for that month. Also, if the recipient requests a timely appeal, and the recipient loses the appeal, the Agency must assess an overpayment for the payments provided while the appeal was pending. Since we could not tell whether SSA hand-delivered or mailed the notices, we assumed all the notices were mailed.

<sup>5</sup> The Goldberg-Kelly temporary period is usually somewhere between the second and third weeks of a month.

<sup>6</sup> MSSICS is the Agency's main SSI system. However, staff cannot use this system under certain circumstances.

<sup>7</sup> The Benefit Records interface exchanges information between the Old-Age, Survivors and Disability Insurance (OASDI) and SSI systems. The SSI Mobile Wage Reporting and SSI Telephone Wage Reporting Systems allow a recipient to report wages through a mobile device or telephone, respectively, and post those wages to the SSI system.

- If the adverse action occurred after the Goldberg-Kelly temporary period, we concluded SSA applied the procedures correctly.
- ✓ If the case involved an appeal, we concluded SSA applied Goldberg-Kelly procedures correctly if the recipient timely requested the appeal and SSA won it and assessed an overpayment for the months of uninterrupted payments made during the appeal.
- Sent 30 of the 275 cases to SSA for review and adjusted our methodology based on the Agency's feedback.
- Projected the results of our CY 2014 sample cases to the population.
- Reviewed an SSA report on a study the Agency conducted in which it found that staff was not always processing Goldberg-Kelly cases correctly.
- Reviewed SSA training material and desk guides on Goldberg-Kelly.
- Identified a population of 3,166 cases with a Goldberg-Kelly indicator in the first 6 months of CY 2016 and a pay status other than death from 1 segment of the SSR. From the 2016 population, we pulled a random sample of 50 cases and conducted the same analysis as we did for the CY 2014 sample cases to determine whether SSA had improved its application of the Goldberg-Kelly procedures.

## CY 2014 Sample Results and Projections

- Population from 1 of 20 SSR segments: 4,893
- Sample Size: 275

**Table C–1: SSI Recipients with Goldberg-Kelly Overpayments**

	Recipients	Dollars
Sample Results	187	\$60,316
Point Estimate	3,327	\$1,073,192
Projection Lower Limit	3,093	\$944,221
Projection Upper Limit	3,548	\$1,202,163
Estimate in 20 Segments (Point estimate multiplied by 20)	66,540	\$21,463,840

**Note:** Projections were calculated at the 90-percent confidence level.

**Table C–2: Collection of Goldberg-Kelly Overpayments**

	<b>Dollars</b>
Sample Results	\$35,290
Point Estimate	\$627,898
Projection Lower Limit	\$524,800
Projection Upper Limit	\$730,996
Estimate in 20 Segments (Point estimate multiplied by 20)	\$12,557,960

**Note:** Projections were calculated at the 90-percent confidence level.

**Table C–3: Waiver or Cancellation of Goldberg-Kelly Overpayments**

	<b>Dollars</b>
Sample Results	\$7,043
Point Estimate	\$125,311
Projection Lower Limit	\$72,764
Projection Upper Limit	\$177,859
Estimate in 20 Segments (Point estimate multiplied by 20)	\$2,506,220

**Note:** Projections were calculated at the 90-percent confidence level.

**Table C–4: Goldberg-Kelly Overpayments Because Staff Applied Procedures Incorrectly**

	<b>Recipients</b>	<b>Dollars</b>
Sample Results	37	\$11,841
Point Estimate	658	\$210,692
Projection Lower Limit	503	\$134,878
Projection Upper Limit	842	\$286,505
Estimate in 20 Segments (Point estimate multiplied by 20)	13,160	\$4,213,840

**Note:** Projections were calculated at the 90-percent confidence level.

**Table C–5: Goldberg-Kelly Overpayments Because of Automated Processes Used**

	<b>Recipients</b>	<b>Dollars</b>
Sample Results	64	\$25,766
Point Estimate	1,139	\$458,449
Projection Lower Limit	942	\$358,384
Projection Upper Limit	1,356	\$558,514
Estimate in 20 Segments (Point estimate multiplied by 20)	22,780	\$9,168,980

**Note:** Projections were calculated at the 90-percent confidence level.

**Table C–6: Goldberg-Kelly Overpayments SSA Could Not Avoid**

	<b>Recipients</b>	<b>Dollars</b>
Sample Results	86	\$22,709
Point Estimate	1,530	\$404,052
Projection Lower Limit	1,311	\$316,344
Projection Upper Limit	1,764	\$491,759
Estimate in 20 Segments (Point estimate multiplied by 20)	30,600	\$8,081,040

**Note:** Projections were calculated at the 90-percent confidence level.

## CY 2016 Sample Results

- Population from 1 of 20 SSR segments: 3,166
- Sample Size: 50

**Table C–7: SSI Recipients with Goldberg-Kelly Overpayments**

	<b>Recipients</b>	<b>Dollars</b>
Sample Results	35	\$10,650

**Table C–8: Goldberg-Kelly Overpayments Because Staff Applied Procedures Incorrectly**

	<b>Recipients</b>	<b>Dollars</b>
Sample Results	7	\$497

**Table C–9: Goldberg-Kelly Overpayments Because of Automated Processes Used**

	<b>Recipients</b>	<b>Dollars</b>
Sample Results	14	4,719

## Comparison of Sample Results for CYs 2014 and 2016

**Table C–10: Comparison of CY 2014 Sample to CY 2016 Sample**

CY	Sample Size	Cases with Overpayments because of...		Cases with Unavoidable Overpayments	Cases with No Overpayments
		Incorrect Processing by SSA Staff	Automated Processes Used		
2014	275	37 (14%)	64 (23%)	86 (31%)	88 (32%)
2016	50	7 (14%)	14 (28%)	14 (28%)	15 (30%)

We conducted our review in Boston, Massachusetts, between July 2016 and February 2017. We tested the data used for our review and concluded they were sufficiently reliable to meet our objective. The entities audited were SSA's field offices under the Office of the Deputy Commissioner for Operations and the Office of Quality Review under the Office of the Deputy Commissioner for Budget, Finance, Quality, and Management. 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 findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **Appendix D—CALENDAR YEARS 2014 AND 2016 SAMPLE RECIPIENTS BY REGION**

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To afford due process required by the 1970 U.S. Supreme Court decision, *Goldberg v. Kelly*,<sup>1</sup> the Social Security Administration (SSA) provides written notification of any reduction, suspension, or termination in a recipient's payments for a non-medical reason (such as a change in income or resources) at least 10 days before (if notice is hand-delivered) or 15 days before (if notice is mailed) the following month to change the payment for that month. Otherwise, the Agency must assess an overpayment for that month.

Table D–1, shows the 275 sample cases with a Goldberg-Kelly indicator in Calendar Year (CY) 2014 by Region. Table D–2 shows the 50 sample cases with a Goldberg-Kelly indicator in CY 2016 by Region.

**Table D–1: CY 2014 Sample of 275 Cases by Region**

Region	Cases with Overpayments Because of		Cases with Unavoidable Overpayments	Cases with No Overpayments	Total
	Incorrect Processing by SSA Staff	Automated Processes Used			
Atlanta	4	11	19	15	<b>49</b>
Boston	3	2	4	1	<b>10</b>
Chicago	6	11	14	13	<b>44</b>
Dallas	6	12	7	12	<b>37</b>
Denver	2	1	3	2	<b>8</b>
Kansas City	3	2	4	5	<b>14</b>
New York	5	3	10	8	<b>26</b>
Philadelphia	1	5	5	10	<b>21</b>
San Francisco	7	14	17	18	<b>56</b>
Seattle	0	3	3	4	<b>10</b>
<b>TOTAL</b>	<b>37</b>	<b>64</b>	<b>86</b>	<b>88</b>	<b>275</b>

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<sup>1</sup> *Goldberg, Commissioner of Social Services of the City of New York v. Kelly et al.*, 397 U.S. 254 (1970).

**Table D–2: CY 2016 Sample of 50 Cases by Region**

Region	Cases with Overpayments Because of		Cases with Unavoidable Overpayments	Cases with No Overpayments	Total
	Incorrect Processing by SSA Staff	Automated Processes Used			
Atlanta	0	2	2	3	<b>7</b>
Boston	1	0	1	0	<b>2</b>
Chicago	1	4	1	4	<b>10</b>
Dallas	1	1	3	1	<b>6</b>
Denver	0	0	2	0	<b>2</b>
Kansas City	1	0	2	1	<b>4</b>
New York	2	1	0	1	<b>4</b>
Philadelphia	0	2	1	0	<b>3</b>
San Francisco	1	4	2	4	<b>11</b>
Seattle	0	0	0	1	<b>1</b>
<b>TOTAL</b>	<b>7</b>	<b>14</b>	<b>14</b>	<b>15</b>	<b>50</b>

## **Appendix E – AGENCY COMMENTS**

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### **SOCIAL SECURITY**

#### **MEMORANDUM**

Date: June 8, 2017 Refer To: S1J-3

To: Gale S. Stone  
Acting Inspector General

From: Stephanie Hall /s/  
Acting Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, "Supplemental Security Income Overpayments Resulting from the Goldberg-Kelly Procedures" (A-01-14-34091)--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 (OIG) DRAFT REPORT, “SUPPLEMENTAL SECURITY INCOME OVERPAYMENTS RESULTING FROM THE GOLDBERG-KELLY PROCEDURES” (A 01-14-34091)**

Thank you for the opportunity to comment on the draft report. We are committed to protecting taxpayers' dollars and ensuring stewardship of Social Security programs and resources. We will continue to explore ways to modify and streamline our automated notice process to reduce potential overpayments and preserve the public's trust in our programs.

**Recommendation 1**

Determine whether it is cost effective to identify and correct the issue with MSSICS to ensure staff provides the appropriate advance notice.

**Response**

We agree.

**Recommendation 2**

Evaluate the feasibility of having automated notices processed in less than 7 days when the current print contracts expire.

**Response**

We agree.

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