

# **Summary of Controls over Payments Made to Claimant Representatives at the Hearings Level**

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Social Security Administration Office of the Inspector General

### **Objective**

To (1) review controls surrounding payments made to claimant representatives at the hearings level and (2) determine whether the Social Security Administration (SSA) properly approved, paid, and reported the related payments. We also examined sample case characteristics at the hearings level.

### **Background**

Individuals claiming Social Security benefits or Supplemental Security Income payments may appoint a representative to act on his or her behalf in matters before the Agency, including the Office of Disability Adjudication and Review (ODAR). An authorized representative may seek SSA's authorization for the fee he/she wants to charge and collect by following one of two mutually exclusive processes: (1) a fee agreement filed before the favorable decision is rendered or (2) a fee petition, generally filed when services have ended.

### **Our Findings**

In our review of a random sample of 150 closed hearing cases (50 allowances, 50 denials, and 50 dismissals) from Fiscal Year 2011, we found that, while SSA staff was generally following controls pertaining to the authorization and payment of fees to claimant representatives, we identified one issue pertaining to fee approval as well as instances of excessive user fee assessments and claimant representative payments not reported to the Internal Revenue Service (IRS). For instance, we found that all but one of the allowed cases involving a claimant representative contained the necessary appointment and fee approval documents when ODAR decided the case. In the one exception, the claimant representative's appointment and fee agreement documents were uploaded to SSA's systems after the ODAR decisionmaker allowed the claim, and we could find no evidence the decisionmaker approved the fee agreement before SSA paid the claimant representative a fee. In addition, SSA charged an excessive assessment fee in 2 of the 41 cases directly paid by the Agency. Moreover, we found SSA did not report direct payments related to 4 of the 41 cases to the IRS via Forms 1099-MISC. Finally, we also identified some characteristics related to claimant representation. For example, dismissals had the lowest rate of representation among all dispositions. In addition, about 58 percent of claimant had appointed claimant representatives before SSA processed the claims at the hearings level.

### **Our Recommendations**

To improve controls over the claimant representative approval, payment, and reporting processes, we recommend SSA:

1. Review the two excessive claimant representative user fees from our sample cases and take the necessary actions to resolve these errors as well as improve the accuracy of future assessments.
2. Review the four claimant representative direct payments from our sample cases that SSA did not report to the IRS to improve future 1099-MISC tax reporting.

SSA agreed with the recommendations.