

Office of the Inspector General

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John R. Dyer
Principal Deputy Commissioner
of Social Security

Acting Inspector General

Use of Plans for Achieving Self-Support to Obtain Supplemental Security Income
Benefits (A-01-98-61006)

The attached final report presents the results of our review. Our objective was to quantify the Supplemental Security Income (SSI) benefits paid to Old-Age, Survivors and Disability Insurance beneficiaries who would not otherwise be eligible for SSI without a Plan for Achieving Self-Support.

You may wish to comment on any further actions 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

**USE OF PLANS FOR ACHIEVING
SELF-SUPPORT TO OBTAIN
SUPPLEMENTAL SECURITY
INCOME BENEFITS**

September 1999

A-01-98-61006

AUDIT REPORT



EXECUTIVE SUMMARY

OBJECTIVE

Our objective was to quantify the Supplemental Security Income (SSI) benefits paid to Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries who would not otherwise be eligible for SSI without a Plan for Achieving Self-Support (PASS).

BACKGROUND

In 1972, Congress enacted the PASS provision under the SSI program as a work incentive for blind and disabled individuals with restricted earnings ability because of their impairment. PASS was intended to provide every opportunity and encouragement for people with disabilities to undertake gainful employment. It allows a disabled or blind person to set aside income and/or resources for activities to achieve a work goal such as education, vocational training, or starting a business. Funds, such as OASDI benefits, that are set aside under a PASS are excluded under the SSI income and resource tests.

Unlike other return to work provisions, Congress did not specifically implement PASS as a provision for the OASDI program. However, the legislative history indicates that the PASS provision should be broadly administered to achieve its purpose. Therefore, OASDI beneficiaries are allowed to implement PASS plans and receive SSI benefits when they would not otherwise be eligible for SSI.

RESULTS OF REVIEW

Our review showed that some OASDI beneficiaries with income and/or resources excluded under a PASS in Fiscal Year 1993 were utilizing the PASS provision to begin receiving SSI benefits. We estimate that \$18.25 million in SSI benefits were paid to approximately 2,268 concurrent beneficiaries, who, because of their PASS exclusion, were eligible to receive SSI. The expectation of the PASS provision is that after completion, an individual's benefits would stop or at least be reduced. However, we found that OASDI benefits continued at the same or higher rate after income and/or resources were no longer excluded under their PASS plans.

RECOMMENDATION

We recommend that the Social Security Administration (SSA) pursue legislation to discontinue the practice of OASDI beneficiaries using PASS as a means to establish SSI eligibility.

AGENCY COMMENTS

In response to our draft report, SSA did not agree to pursue the recommended legislation at this time. SSA stated that, while our report describes past problems with PASS, these problems predate significant changes to the PASS provision made in April 1996. (See Appendix A for the full text of SSA's comments to our draft report).

OFFICE OF THE INSPECTOR GENERAL RESPONSE

While significant changes were made to the PASS provision in 1996, none of these changes were meant to address OASDI beneficiaries using PASS to become eligible for SSI. As such, it is unclear how the cited study, on reentry to the work force by PASS since 1996, will yield insight into the problem. We urge SSA to evaluate the design of the study and confirm that its intended results will be of use to resolve this matter. If the study appears to hold the potential for developing relevant information, then we agree that SSA should reconsider the legislative proposal only after its completion. However, if the study appears not to bear directly on the practice of OASDI beneficiaries' use of PASS, then SSA should pursue a legislative change now.

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INTRODUCTION

OBJECTIVE

Our objective was to quantify the Supplemental Security Income (SSI) benefits paid to Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries who would not otherwise be eligible for SSI without a Plan for Achieving Self-Support (PASS).

BACKGROUND

Intent of the PASS Provision

In 1972, Congress enacted the PASS provision under the SSI program as a work incentive for blind and disabled individuals to help them return to work. Funds that are set aside under a PASS are excluded under the SSI income and resource tests. The Code of Federal Regulations (20 C.F.R. 416.1181) states that a PASS must: (a) be designed especially for a recipient or applicant; (b) be in writing; (c) be approved by Social Security Administration (SSA); (d) be designed for an initial period of not more than 18 months;¹ (e) show a specific occupational goal; (f) show what money the recipient or applicant has and will receive, how it will be spent, and how it will be used to attain the occupational goal; and (g) show how the money the recipient or applicant sets aside under the PASS will be separated from his/her other funds.

Unlike other return to work provisions (e.g., trial work periods, extended periods of eligibility, etc.), Congress did not specifically implement PASS as a provision for the OASDI program. However, the legislative history indicates that the PASS provision should be broadly administered to achieve its purpose. As such, OASDI beneficiaries are allowed to implement PASS plans and receive SSI benefits when they would not otherwise be eligible for SSI.

1995 Office of Quality Assurance and Performance Assessment Review

The Commissioner requested a study of the PASS provision and, in June 1995, the Office of Quality Assurance and Performance Assessment (OQA) issued its report. This study found that the PASS provision did not accomplish its objective to provide opportunity and encouragement to disabled recipients to become self-supporting. OQA

¹ A PASS may be extended for an additional 18 months if the recipient cannot complete the plan in the first period, and a total of up to 48 months may be allowed to fulfill a plan for a lengthy education or training program. Public Law 103-296 (passed in 1994) eliminated the 36/48-month time limit, and SSA's guidelines were revised to allow for the extension of a PASS beyond the previous time limits in 6-month increments.

stated that the PASS provision added substantially to the SSI program costs and resulted in few recipients becoming self-supporting. The report stated that the one overriding factor preventing the PASS provision from being cost-effective was the policy permitting individuals with income and/or resources above the SSI eligibility limits to be added to the SSI rolls through approval of a PASS. OQA reported that such cases (about 29 percent of the terminated PASS plans in the study) added significant costs to the PASS provision but did not yield any SSI, Medicaid, or administrative savings since the recipients were not eligible for SSI before applying the PASS exclusions.

This study also found that 75 percent of active PASS plans involved SSI recipients who also received OASDI benefits. The study found a growing trend in the number of OASDI beneficiaries who became eligible for SSI only because the PASS excluded OASDI income. Based on the study findings, OQA urged the development of a comprehensive approach to ensure that the PASS provision objectives were more clearly defined and that the objectives were met. Further, OQA stated that the most significant study finding strongly supported a policy change to require that eligibility to SSI payments be established before an individual became entitled to the PASS income and/or resource exclusions. OQA concluded by stating that SSA's Office of General Counsel (OGC) staff informally advised them that such a change would require legislative action.

The Office of Counsel to the Inspector General (OCIG) agreed with OGC's assessment that a legislative change would be necessary to require that eligibility for SSI payments be established before an individual became entitled to the PASS income and/or resource exclusions. In this regard, OCIG found no specific congressional statements addressing whether an approved PASS may be used to establish initial eligibility for SSI. Therefore, we cannot state with certainty whether Congress specifically intended the PASS provision to permit individuals, who would not otherwise be eligible, to qualify for SSI benefits.

General Accounting Office Review

Congress requested that the General Accounting Office (GAO) review the PASS provision and, in February 1996, GAO issued a report on its review. The purpose of GAO's study was to: (1) evaluate SSA's management of the PASS program, including the program's impact on employment; and (2) determine whether the PASS program was vulnerable to abuse. GAO's study concluded that SSA had done a poor job implementing and managing the PASS program. Also, GAO reported that about 40 percent of PASS participants, largely OASDI beneficiaries, would only be eligible for SSI payments if some of their income was disregarded under a PASS. Nearly all OASDI beneficiaries who had participated in the PASS program received their full benefits in May 1995, resulting in virtually no savings for the OASDI trust fund. In addition to six recommendations related to SSA management of the PASS provision, GAO questioned whether Congress intended for the PASS provision to be used to

obtain eligibility for SSI. In its response to GAO's report, SSA stated that it was worth questioning if Congress really intended individuals to become eligible for SSI by using a PASS.

Further SSA Actions

After these studies, SSA implemented improvements in the management of the PASS provision. However, these improvements to PASS administration did not address recipients using the PASS provision to begin receiving SSI payments. In April 1996, SSA implemented several changes to the PASS provision, including establishment of a cadre of employees to review all PASS actions. Also, SSA revised the PASS guidelines to emphasize that completion of a PASS must be expected to reduce or eliminate dependence on SSI payments and that PASS plans must specify an occupational goal that is feasible (taking into account the person's impairment(s), prior work history, and training).

In May 1997, OQA again reviewed the PASS provision. SSA's Deputy Commissioner for Operations requested the study which OQA designed to provide quick feedback on the performance of the 16 regional cadres in processing PASS applications. In addition to other findings and recommendations on PASS management, OQA reported that, in 73 percent of approved PASS plans, OASDI benefits were excluded under the PASS provision. OQA reiterated in the report that a legislative proposal is required to change the PASS provision so that an individual cannot establish SSI eligibility by implementing a PASS.

Additional clarifications and changes to PASS procedures were made in December 1997. These included distinguishing between the feasibility of a PASS goal and the viability of the plan for achieving it, as well as no longer limiting an occupational goal to an entry level position. Also, the role of the PASS specialist expanded to include more direct communication with PASS applicants and participants. In addition, SSA developed a legislative proposal regarding the use of the PASS provision to establish eligibility for SSI, but never submitted it to Congress. SSA decided to withdraw the proposal due to the changes it made to PASS procedures in 1996 and 1997.

SCOPE AND METHODOLOGY

To accomplish our objective, we:

- Reviewed applicable Federal laws, regulations, and program guidelines.
- Obtained a data extract of all recipients with income and/or resources excluded under the PASS provision for the period October 1992 through February 1998.

- Randomly sampled and reviewed 100 cases from the 8,401 records with income and/or resources excluded under a PASS in Fiscal Year (FY) 1993 to determine the number of OASDI beneficiaries who used a PASS to begin receiving SSI payments. We also quantified the amount of SSI funds paid to these OASDI beneficiaries. (See Appendix B for details of our sampling methodology).
- Randomly sampled and reviewed 100 cases from the 5,464 records with income and/or resources excluded under a PASS in FY 1997 to determine the number of OASDI beneficiaries who used a PASS to begin receiving SSI payments. We only quantified the amount of SSI funds paid to these OASDI beneficiaries when income and/or resources stopped being excluded under the PASS provision. Our FY 1997 sample was reviewed to determine whether SSA's 1996 improvements to the procedures had any effect on OASDI beneficiaries' use of the PASS provision.
- Obtained a legal opinion from OCIG regarding whether Congress intended the PASS provision to be a vehicle by which individuals may establish initial SSI eligibility.

We conducted our review between April and June 1998 in Boston, Massachusetts. We did not review any internal controls regarding the PASS provision, nor did we review the specific PASS plans for compliance with SSA's policies and procedures. Our review was conducted in accordance with generally accepted government auditing standards.

RESULTS OF REVIEW

The PASS provision is a SSI work incentive that is being used by some OASDI beneficiaries to increase their type and amount of benefits. We estimate that \$18.25 million in SSI funds were paid to approximately 2,268 concurrent² beneficiaries who, without a PASS, would not have been eligible to receive those benefits. Our review of FY 1997 PASS plans found that SSI benefits continued to be paid to OASDI beneficiaries who only qualified for SSI because of the PASS provision. The expectation of the PASS provision is that after completing a PASS, an individual's benefits would stop or at least be reduced. Instead, after income and/or resources stopped being excluded under PASS, SSI benefits were terminated, and these beneficiaries continued to receive their OASDI benefits without any reduction in the amount. We believe OASDI beneficiaries are using the PASS provision to become eligible for SSI. If these OASDI beneficiaries had not been able to exclude income and/or resources under PASS plans, they would not have been eligible for SSI.

FY 1993 PASS Cases

Our review of 100 of the 8,401 individuals with income and/or resources excluded under the PASS provision during FY 1993 showed that:

- Seventy-three PASS plans were for concurrent beneficiaries.
- Twenty-seven PASS plans were for concurrent beneficiaries who began receiving SSI when their income and/or resources started being excluded under a PASS. Because of this PASS exclusion, these individuals were eligible for SSI.
- For the 27 individuals who began receiving SSI payments when their PASS plans were implemented, OASDI benefits did not decrease after their PASS exclusions ended.
- A total of \$217,273 in SSI funds were paid to the 27 OASDI beneficiaries who used PASS plans to become eligible for SSI. Without PASS plans, these SSI benefits would not have been paid to these individuals.

² A beneficiary who is receiving both OASDI and SSI benefit payments.

- SSI benefits terminated when income and/or resources were no longer excluded under the PASS plans for all but two of the individuals who began receiving SSI after implementing their plans. For these two OASDI beneficiaries, reduced SSI benefits continued after their PASS plans ended for an additional 5 months and 12 months, respectively, until their benefits stopped because of excess income and/or resources.

One example of an OASDI beneficiary who used a PASS to become eligible for SSI involved a person who started receiving OASDI benefits in October 1988. This individual implemented a PASS in June 1992, allowing him to set aside income and/or resources and begin receiving SSI payments. A total of \$20,903 in SSI benefits was paid to this individual from June 1992 to May 1996. In June 1996, income and/or resources stopped being excluded under PASS, and as a result, the beneficiary's SSI benefits stopped. After the PASS exclusion ended in May 1996, this person's \$719 monthly OASDI benefit continued. This beneficiary continued to receive monthly OASDI benefits in 1998 in the amount of \$755 per month. Hence, the beneficiary was only eligible for SSI as a result of having a PASS, and his income and resources and OASDI payment status did not change as a result of his PASS. As a result of implementing a PASS, he received \$20,903 in SSI benefits he would not have received without a PASS.

Projecting the results of our sample to the population of 8,401 SSI recipients who excluded income and/or resources under PASS plans in FY 1993, we estimate that 2,268 concurrent beneficiaries would not have been eligible for SSI payments without excluding income and/or resources under the PASS provision. As a result, we estimate that \$18.25 million in SSI funds were spent on these beneficiaries whose monthly OASDI payments did not decrease after their PASS exclusion ended.

FY 1997 PASS Cases

Our review concentrated on FY 1993 PASS plans so that we could determine the effect on benefits after expiration of the plans selected in our sample. To determine whether the 1996 improvements to the PASS administration process addressed recipients using the PASS provision to begin receiving SSI payments, we also reviewed a sample of 100 cases which had income and/or resources excluded under the PASS provision in FY 1997. As stated previously, in April 1996 and December 1997, SSA implemented several changes to the PASS provision. However, none of these changes were meant to address OASDI beneficiaries using the PASS provision to become eligible for SSI.

For FY 1997 PASS plans, 23 plans were for concurrent beneficiaries who began receiving SSI benefits when their income and/or resources started being excluded under the PASS provision. This represents 29 percent of approved PASS plans in our sample, and it is similar to the 27 percent found in our FY 1993 sample.

Eighteen of the 23 PASS plans no longer had income and/or resources excluded under a PASS at the time of our review. The remaining five plans were ongoing. For the 18 PASS plans, we found that:

- A total of \$200,171 in SSI funds was paid. Without their PASS plans, SSI benefits would not have been paid to these individuals.
- SSI benefits terminated when income and/or resources were no longer excluded under the PASS plans.
- OASDI benefits status did not change after income and/or resources were no longer excluded under a PASS.
- One of the beneficiaries utilized a trial work period (TWP)³ after completing his PASS plan. His TWP ended in October 1997, and he had no earnings after its completion. This individual continues to receive OASDI benefits in 1999.

³ This is a work incentive that allows beneficiaries to work in as many as 9 months without affecting their right to benefits during the trial work period if their impairment does not improve during this period.

RECOMMENDATION

We recommend that SSA pursue legislation to discontinue the practice of OASDI beneficiaries using PASS as a means to establish SSI eligibility.

AGENCY COMMENTS

In response to our draft report, SSA did not agree to pursue the recommended legislation at this time. SSA stated that, while our report describes past problems with PASS, these problems predate significant changes to the PASS provision made in April 1996. SSA further stated that by the end of 2001, a longitudinal study of PASS participants will be complete and will provide conclusive data on whether SSI eligibility through a PASS promotes re-entry into the work force.

OFFICE OF THE INSPECTOR GENERAL RESPONSE

While significant changes were made to the PASS provision in 1996, none of these changes were meant to address OASDI beneficiaries using PASS to become eligible for SSI. As such, it is unclear how the cited study, on reentry to the work force by PASS since 1996, will yield insight into the problem. We urge SSA to evaluate the design of the study and confirm that its intended results will be of use to resolve this matter. If the study appears to hold the potential for developing relevant information, then we agree that SSA should reconsider the legislative proposal only after its completion. However, if the study appears not to bear directly on the practice of OASDI beneficiaries' use of PASS, then SSA should pursue a legislative change now.

APPENDICES

AGENCY COMMENTS

SAMPLING METHODOLOGY AND RESULTS

We obtained a data extract from the Supplemental Security Income Record for all recipients who had income and/or resources excluded under a Plan for Achieving Self-Support (PASS) for the period October 1992 through February 1998. We then extracted two populations from this listing. The first consisted of 8,401 records which had income and/or resources excluded under a PASS in Fiscal Year (FY) 1993, and the second population consisted of 5,464 records¹ which had income and/or resources excluded under a PASS in FY 1997.

We selected FY 1993 because it would provide a complete picture of the PASS provision. Specifically, it enabled us to analyze whether a person was ineligible for Supplemental Security Income (SSI) benefits prior to the PASS, became eligible for SSI benefits with the PASS, and then lost SSI eligibility after the PASS exclusion ended without any improvement to his/her Old Age, Survivors and Disability Insurance (OASDI) payment status. If a PASS were established in FY 1993 for a total of 48 months,² it may not have been completed until FY 1997. Therefore, analyzing PASS data for FYs later than FY 1993 may not have enabled us to get a complete picture of a recipient's status after the PASS income and/or resource exclusion ended.

In April 1996, the Social Security Administration (SSA) implemented several changes to the PASS provision to facilitate the quality and uniformity of PASS decisions. Therefore, we selected FY 1997 for review to show the current status of the PASS program in relation to FY 1993. However, we only quantified the SSI benefits paid to recipients in our FY 1997 sample if income and/or resources were no longer being excluded under a PASS as of June 1998.

For each of FYs 1993 and 1997, we randomly sampled and reviewed 100 PASS plans. The table on the next page shows our results.

¹ A recipient with income excluded under a PASS in both FYs 1993 and 1997 would be included in both sample populations.

² Prior to the implementation of Public Law 103-296 in 1994, 48 months was the maximum length for a PASS. This 1994 law, however, eliminated time limits for PASS plans, and SSA revised its guidelines to allow for extensions beyond the 48 months in 6-month increments.

Sample Results	Income and/or Resources Excluded Under a PASS in FY 1993	Income and/or Resources Excluded Under a PASS in FY 1997
Population size	8,401	5,464
Sample size	100	100
Approved PASS plans in sample	100	79
Concurrent beneficiaries in sample	73	77
Attribute Projections		
Sampled OASDI beneficiaries who only received SSI because of a PASS	27	23
Percentage of sampled OASDI beneficiaries with approved PASS plans	27%	29% ³
Projection of OASDI beneficiaries	2,268	
Projection lower limit	1,665	
Projection upper limit	2,959	
Dollar Projections		
Sampled SSI benefits paid to OASDI beneficiaries who only received SSI because of a PASS	\$217,273	\$200,171 ⁴
Projection of SSI benefits paid to OASDI beneficiaries	\$18,253,074 ⁵	
Precision (plus or minus)	\$6,839,607	

Note: All precision figures were calculated at the 90-percent confidence level.

³ Out of 79 approved PASS plans, 23 OASDI beneficiaries only received SSI payments because of their PASS plans. The remaining 21 cases in our sample of 100 had a noncontinuing PASS earned income exclusion of \$.01 indicating that the PASS was denied.

⁴ These SSI benefits paid to OASDI beneficiaries are only for the 18 of 23 PASS plans that were no longer having income and/or resources excluded under PASS as of June 1998. The remaining five plans were still continuing when we reviewed the cases in June 1998.

⁵ This amount covers payments made during a multi-year period (October 1992 through May 1998).

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SSA ORGANIZATIONAL CHART
