
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**SOCIAL SECURITY FUNDS
HELD IN
DORMANT BANK ACCOUNTS**

February 2004

A-02-03-23080

AUDIT REPORT



Mission

We improve SSA programs and operations and protect them against fraud, waste, and abuse by conducting independent and objective audits, evaluations, and investigations. We provide timely, useful, and reliable information and advice to Administration officials, the Congress, and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.**
- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

Vision

By conducting independent and objective audits, investigations, and evaluations, we are agents of positive change striving for continuous improvement in the Social Security Administration's programs, operations, and management and in our own office.



SOCIAL SECURITY

MEMORANDUM

Date: February 18, 2004

Refer To:

To: The Commissioner

From: Inspector General

Subject: Social Security Funds Held in Dormant Bank Accounts (A-02-03-23080)

OBJECTIVE

Our objectives were to determine (1) the amount of Social Security funds held in dormant bank accounts for beneficiaries in the New York region who were determined to be deceased based on recent investigations and (2) whether the Social Security Administration (SSA) could recover these funds.

BACKGROUND

As part of its efforts to identify erroneous payments made via direct deposits, SSA, in conjunction with the Office of the Inspector General (OIG), instituted the Medicare Non-Usage Project (MNUP). The MNUP compared SSA data on older beneficiaries in current pay status to Medicare claims data. Through this nationwide data match, SSA identified beneficiaries receiving Old-Age, Survivors and Disability Insurance (OASDI) benefits who had not submitted any Medicare claims during the previous 18-month period. SSA attempted to contact the beneficiaries, beginning with the oldest and working in two phases, to determine whether they were still alive and entitled to benefits. If SSA was unable to locate a beneficiary, it suspended the beneficiary's payments and forwarded the case to the OIG's Office of Investigations (OI).

OI's New York division investigated 95 beneficiaries whom SSA was unable to locate. OI found some beneficiaries alive, some deceased, and some instances where the beneficiary had died but someone else was fraudulently receiving the deceased beneficiary's payments. To date, 15 individuals have been arrested for illegally receiving other Social Security beneficiaries' funds after their deaths. OI also identified 15 accounts with no official evidence of the individuals' deaths or whereabouts. Through their investigations, OI staff concluded that the 15 beneficiaries were deceased, even though they were unable to locate official death certificates for them. The bank accounts for these beneficiaries, which had been receiving OASDI benefits

through direct deposit, contained over \$1.3 million. Direct deposit of Social Security benefits was the only activity for these bank accounts for a period of many years. Other OI regions have identified eight similar cases with bank accounts totaling \$538,139.

Under current policy, SSA initiates a United States Department of Treasury (Treasury) reclamation procedure when SSA learns a beneficiary is deceased and Social Security funds were erroneously paid into the beneficiary's bank account via direct deposit after his or her death.¹ SSA staff indicate that SSA generally will only initiate a Treasury reclamation to recover payments with official proof of a date of death. Once a reclamation request is electronically initiated, Treasury will attempt to reclaim up to an amount equal to the last 6 years' worth of erroneous payments from the financial institution involved, regardless of when they were made. Reclamations have not been initiated for the 15 cases identified by OI since death certificates could not be found for the beneficiaries.

Under applicable State law, after a specified period of time, generally 5 to 6 years, funds in inactive, or dormant, bank accounts are forwarded to the applicable State treasury departments. This process is known as escheatment. State treasuries will hold escheated funds until someone who can prove a legitimate claim requests them. Treasury has no policy to reclaim escheated funds. Its staff may attempt to pursue these funds, but generally a reclamation request that involves escheated funds is returned to SSA. SSA personnel have had some success in retrieving escheated funds by contacting State treasury departments and financial institutions even though the Program Operations Manual System (POMS) does not provide guidance on such cases. A draft section of the POMS attempts to address the issue of escheated funds by suggesting regional personnel contact their regional attorneys to discuss options for determining a course of action. Regional staff have expressed frustration at not consistently being able to retrieve funds clearly owed to SSA and not having policy in place to provide better guidance.

RESULTS OF REVIEW

SSA deposited over \$1 million of payments into the accounts of 15 beneficiaries we determined to be deceased. While official proof of death for these beneficiaries was not located, there was no evidence collected indicating these individuals were alive. SSA deposited funds until benefits were suspended in 2002 as a result of the MNUP. To date, SSA has not made official determinations of death for these beneficiaries, so the Social Security funds have not been classified as erroneous payments. Accordingly, SSA has not sought to reclaim the funds through Treasury's reclamation process even though Treasury's policies would allow for the collection of these funds upon SSA's presumption of death.

¹ Since all of the subjects of the OI investigation received SSA payments through direct deposit, the discussion in this report is limited to the reclamation process as it pertains to payments made through direct deposit.

DORMANT ACCOUNTS CONTAINING SSA FUNDS

Over \$1 Million Held in Dormant Bank Accounts Is Eligible for Reclamation

The dormant bank accounts for the 15 missing beneficiaries identified contained over \$1.3 million. Our analysis concluded that SSA deposited \$1,069,159 into these beneficiaries' accounts after the dates we determined, based on investigations and bank records, to be their dates of death (see Table 1). Treasury's policy allows for the reclamation of an amount equal to the last 6 years' worth of payments made, regardless of when they were made. An exception to the 6-year rule applies if the bank account balance at the time of the reclamation exceeds the total amount of post-death payments, in which case Treasury seeks the total amount of post-death payments. Since each of the accounts we reviewed contained more than the total amount of SSA funds deposited after the determined date of death, Treasury's exception to its 6-year rule is applicable and the entire \$1,069,159 is eligible for recovery.² In addition to the SSA funds, the Agency also paid Medicare premiums on the beneficiaries' behalf totaling \$76,734 since their disappearance, which is fully retrievable by SSA.

Table 1: Funds Paid to Beneficiaries Determined to be Dead

Account	Total Amount of Funds in Bank Account	Total SSA Funds Deposited Into Account After Death	SSA Payments Made to Medicare After Death
1	\$90,000	\$69,448	\$7,610
2	155,000	105,128	5,552
3	178,000	174,565	7,772
4	134,000	124,659	7,225
5	100,000	76,748	5,552
6	100,000	79,371	3,878
7	13,060	11,976	1,605
8	147,000	146,372	9,939
9	43,738	19,819	9,930
10	130,000	103,962	5,228
11	23,000	21,180	899
12	23,000	16,635	899
13	70,891	45,449	6,778
14	26,000	25,643	0
15	67,000	48,204	3,867
Total	\$1,300,689	\$1,069,159	\$76,734

² 31 C.F.R. § 210.10(d).

In addition to these 15 dormant account cases, 8 other beneficiaries are presumed to be deceased as the result of other OI investigations related to the MNUP. These eight beneficiaries had bank accounts totaling \$538,139. The balances of these accounts ranged from \$12,289 to \$179,000, with an average of \$67,267.

POLICIES RELATED TO DETERMINING DATE OF DEATH

SSA's current policy delays, and may prevent, it from reclaiming any of the funds paid to the 15 beneficiaries identified. To reclaim these funds, the Agency must first presume that the beneficiaries are dead and establish dates of death. Once a date of death is determined by the Agency, the funds paid after the date of death would be considered erroneous payments and SSA could reclaim them through Treasury's reclamation process. Treasury defers to an agency's policies when determining the date of death to be used in the reclamation process.

The presumption of death is widely accepted in State and Federal courts to determine entitlement to property and is codified in SSA's regulations.³ For the purpose of determining eligibility to benefits for survivors and dependents, SSA will presume a person is dead if evidence shows that the individual has been missing for at least 7 years. If the presumption of death is not rebutted, SSA will use as the date of death the date of disappearance, the date ending the 7-year period, or some other date depending upon what the evidence shows is the most likely date of death.⁴

In a 1999 policy interpretation ruling, SSA extended this regulatory presumption of death to the termination of entitlement to benefits.⁵ According to this policy, SSA will presume a person is dead if the individual has been missing for 7 years AND benefits have remained in suspension for a 7-year period. Absent evidence to the contrary, SSA will use as the date of death the date of disappearance, the date ending the 7-year period, or some other date depending upon what the evidence shows is the most likely date of death.⁶

Although the 15 beneficiaries identified have been missing for at least 7 years, SSA's current policies will not allow for the presumption of death, and the termination of entitlement, since their payments have only been suspended since 2002. SSA could wait until 2009, when the benefits have been suspended for 7 years, to terminate entitlement, presume dates of death, and then attempt to reclaim the erroneously paid funds.

³ Social Security Ruling (SSR) 99-1p (4/14/99); 20 C.F.R. § 404.721.

⁴ 20 C.F.R. § 404.721.

⁵ SSR 99-1p.

⁶ Id.

The 7-year delay due to the required suspension of benefits is not necessary and may make it more difficult to recover the erroneous payments. Additionally, the money will most likely not be in the bank accounts after the 7-year delay. By then, the funds will have been escheated to the appropriate State treasury department, making reclamation of the funds extremely difficult as Treasury has no policy to reclaim escheated funds. Finally, proposed rules would change Treasury's reclamation process by further limiting reclaimable funds to those made only in the 7-year period prior to the date of the reclamation request.⁷ Treasury has proposed this rule since it has concluded that delayed reclamations are particularly difficult and time-consuming to process since neither agencies nor financial institutions retain records indefinitely and very old payment records or related account information are frequently not available.

CONCLUSION AND RECOMMENDATIONS

According to Treasury policies, SSA may initiate bank reclamations for beneficiaries it presumes are deceased, even if official death certificates cannot be located for the beneficiaries. Retrieval of funds in dormant bank accounts would not subject a beneficiary to any penalty, since proof of a beneficiary's living status would entitle him or her to any past benefits that had been recovered by SSA. SSA's inaction may risk the loss of funds paid to beneficiaries determined to be dead due to the statute of limitations being established by Treasury for reclamation procedures and/or the escheatment of the funds to a State.

We recommend that SSA:

1. Change its policy regarding the presumption of death for purposes of reclaiming erroneously paid funds to eliminate the need for having benefits in suspension for 7 years where evidence to presume a person's death exists, as defined by 20 C.F.R. 404.721.
2. Use its revised policy to establish dates of death for the 15 beneficiaries highlighted in our report and the other 8 similar cases investigated.
3. Initiate Treasury reclamations to retrieve SSA funds held in the dormant bank accounts of the beneficiaries highlighted in this report.
4. Request that the Department of Health and Human Services' Centers for Medicare and Medicaid Services return all of the Medicare premium payments made on behalf of the beneficiaries identified in this report.

⁷ Federal Government Participation in the Automated Clearing House, 68 Fed. Reg. 50,672 (2003).

AGENCY COMMENTS

SSA agreed with all of our recommendations. See Appendix C for the text of SSA's comments.

A handwritten signature in blue ink, appearing to read "James G. Huse, Jr.", written in a cursive style.

James G. Huse, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Agency Comments

APPENDIX D – OIG Contacts and Staff Acknowledgments

Acronyms

CFR	Code of Federal Regulations
MNUP	Medicare Non-Usage Project
OASDI	Old-Age, Survivors and Disability Insurance
OI	Office of Investigations
OIG	Office of the Inspector General
POMS	Program Operations Manual System
SSA	Social Security Administration
SSR	Social Security Rulings
Treasury	Department of Treasury

Scope and Methodology

Our review followed an investigation of beneficiaries receiving Old-Age, Survivors and Disability Insurance benefits, who had not submitted any Medicare claims during the 18-month period prior to the investigation and subsequently, could not be located. The investigation concluded that 15 beneficiaries were dead and not entitled to Social Security benefits, even though official records of death could not be located. Additionally, we surveyed to determine the number of similar dormant account cases investigated and the dollar amounts in those accounts.

We calculated the amount of Social Security funds contained in the 15 beneficiaries' bank accounts through direct deposits. To accomplish our objectives, we reviewed investigation reports for each case to determine the likely date of death. We also spoke with bank officials to confirm the dollar amounts contained in each bank account.

We accessed Payment History Update System records to identify the payments made to these accounts from the established dates of death to the last payments made. We also calculated the amount of Medicare premiums paid on behalf of the 15 beneficiaries from their determined dates of death.

We contacted Treasury personnel to discuss their policy regarding evidence required for establishing a date of death to initiate a reclamation of Government funds. We also discussed their regulations regarding accounts that have been escheated to the State. We learned of pending Treasury regulations that seek to further limit the number of years Treasury will go back to collect funds.

We contacted Social Security Administration (SSA) regional staff to discuss their efforts to reclaim escheated funds and other payments that Treasury would not or could not pursue, and their success in doing so. We also obtained a draft SSA Program Operations Manual System section which seeks to provide consistent guidance regarding the reclamation of escheated funds.

Additionally, we examined the applicable State recovery laws and practices for dormant accounts and any practices used by other Federal agencies that have addressed similar circumstances. We also requested a legal opinion from the Office of Counsel to the Inspector General regarding SSA's ability to retrieve funds from beneficiaries' dormant bank accounts.

We conducted our field work in the New York Office of Audit between April and September 2003. We conducted our audit of the Operations Analysis Section of the Northeast Program Service Center in accordance with generally accepted government auditing standards.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

73-24-1050

Date: February 5, 2004

Refer To: S1J-3

To: James G. Huse, Jr.
Inspector General

From: Larry W. Dye /s/
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report "Social Security Funds Held in Dormant Bank Accounts" (A-02-03-23080)--INFORMATION

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

Please let me know if you have any questions. Staff inquiries may be directed to Candace Skurnik, Director, Audit Management and Liaison Staff, at extension 54636.

Attachment:
SSA Response

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT
“SOCIAL SECURITY FUNDS HELD IN DORMANT BANK ACCOUNTS” (AUDIT NO.
A-02-03-23080)**

Thank you for the opportunity to review and comment on the draft report. We support the recommendations for changing our policy, and ensuring that benefit payments and Medicare premiums paid after the death of a beneficiary are recovered and returned to the trust funds. Our response to the specific recommendations, and some technical comments, are provided below.

Recommendation 1

The Social Security Administration (SSA) should change its policy regarding the presumption of death for purposes of reclaiming erroneously paid funds to eliminate the need for having benefits in suspension for 7 years where evidence to presume a person’s death exists, as defined by 20 C.F.R. 404.721.

Response

We agree. We will consider changing the policy to have a 2 year time frame to have benefits in suspension, as opposed to eliminating the provision altogether.

Recommendation 2

SSA should use its revised policy to establish dates of death for the 15 beneficiaries highlighted in our report and the other 8 similar cases investigated.

Response

We agree and will implement the recommendation when the policy change is made.

Recommendation 3

SSA should initiate Treasury reclamations to retrieve SSA funds held in the dormant bank accounts of the beneficiaries highlighted in this report.

Response

We agree and will initiate reclamation action on those funds identified in dormant accounts, based on the policy update to Program Operations Manual System (POMS).

Recommendation 4

SSA should request that the Department of Health and Human Services' Centers for Medicare and Medicaid Services return all of the Medicare premium payments made on behalf of the beneficiaries identified in this report.

Response

We agree. When action is taken to terminate benefits to those beneficiaries who are deceased, or presumed deceased, the system will automatically perform the necessary trust fund adjustments. This system capability has been in place since December 2002.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Tim Nee, Audit Manager, New York Office of Audit, (212) 264-5295

Acknowledgments

In addition to those named above:

John Grasso, Assistant Special Agent in Charge, Office of Investigations

Denise Ramirez, Program Analyst, Office of Audit

Amy Thompson, Attorney, Office of Counsel to the Inspector General

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The Office of Audit (OA) conducts comprehensive financial and performance audits of the Social Security Administration's (SSA) programs and makes recommendations to ensure that program objectives are achieved effectively and efficiently. Financial audits, required by the Chief Financial Officers' Act of 1990, assess whether SSA's financial statements fairly present the Agency's financial position, results of operations and cash flow. Performance audits review the economy, efficiency and effectiveness of SSA's programs. OA also conducts short-term management and program evaluations focused on issues of concern to SSA, Congress and the general public. Evaluations often focus on identifying and recommending ways to prevent and minimize program fraud and inefficiency, rather than detecting problems after they occur.

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Counsel to the Inspector General

The Counsel to the Inspector General provides legal advice and counsel to the Inspector General on various matters, including: 1) statutes, regulations, legislation, and policy directives governing the administration of SSA's programs; 2) investigative procedures and techniques; and 3) legal implications and conclusions to be drawn from audit and investigative material produced by the OIG. The Counsel's office also administers the civil monetary penalty program.